

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

* * * * *

CLAUDETTE DE LEON, *

Plaintiff

* Case No.

vs.

* 05-126E

CRAWFORD CENTRAL *

SCHOOL DISTRICT *

CRAWFORD CENTRAL *

SCHOOL BOARD, *

Defendants, *

MICHAEL E. DOLECKI, *

Superintendent, *

Defendant, *

CHARLES E. HELLER, *

III, Assistant *

Superintendent, *

Defendant *

* * * * *

DEPOSITION OF

CLAUDETTE DE LEON

April 4, 2006

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<p>1 O B J E C T I O N P A G E</p> <p>2</p> <p>3 ATTORNEY PAGE</p> <p>4 Nichols 97</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 accommodate you.</p> <p>2 It's very important that your</p> <p>3 responses are verbal so that the court</p> <p>4 reporter can take them down. She</p> <p>5 cannot make a clear record or an</p> <p>6 accurate representation of the</p> <p>7 testimony with simply a gesture or</p> <p>8 shrug of the shoulders or nod of the</p> <p>9 head, or an uh-uh or uh-huh. It has to</p> <p>10 be yes or no.</p> <p>11 I would also ask that you answer</p> <p>12 my question so that we will have a</p> <p>13 clear record, and that only one person</p> <p>14 speak at a time. So it's important</p> <p>15 that you let me finish my question</p> <p>16 prior to you answering my question.</p> <p>17 And also, that allows you an</p> <p>18 opportunity to make sure you understand</p> <p>19 my question prior to you answering it.</p> <p>20 If you don't understand my question,</p> <p>21 please let me know and I'll be happy to</p> <p>22 repeat or rephrase it for you. Is that</p> <p>23 clear?</p> <p>24 A.Uh-huh (yes).</p> <p>25 QOkay. And you said uh-huh. You</p>

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<p>1 have to say yes. 2 I'm sorry. Yes. 3 Okay. Thank you. And also, 4 please keep your voice up so that she 5 can hear you, as well. One of the 6 issues that we had discussed last time 7 was what is referred to legally as a 8 mitigation of damages. And 9 essentially, what that means is I was 10 asking you since your termination with 11 the School District, what efforts had 12 you made to obtain other employment? 13 And you had given me a variety 14 of places where you had applied. And 15 currently, you are working, and I 16 understand that. After your 17 deposition, then you had given me some 18 documents, and I want to mark these 19 collectively, they're 17 pages, as de 20 Leon Exhibit Three. 21 (de Leon Exhibit Number 22 Three marked for 23 identification.) 24 BY ATTORNEY HEATH: 25 Q And I had asked you prior to the</p>	<p>1 Some of the other information, however, 2 that I have that you provided to me 3 simply looks more like the fact that 4 you filed an application. There's no 5 indication as to whether or not you 6 ever had an interview or any letters 7 from the employer. 8 AI did have an interview. They 9 just never got back to me. 10 Q And you're looking at which 11 document now? 12 A The Hispanic American Council. 13 They have three different positions. 14 Q And you did have an interview? 15 A And I had an interview. 16 Actually, I had two interviews. But 17 they never got back to me. 18 Q And do you have any other 19 documentation that would verify the 20 dates or times when you had those 21 interviews? 22 A The only thing I can get is a 23 letter from them. 24 Q Okay. 25 A Because they might have a record</p>
Page 11	Page 13
<p>1 deposition to take a look at these 2 documents to make sure that these were 3 the ones that you had given me the last 4 time we met? 5 A Yes. 6 Q And you had indicated, I 7 believe, that you thought that there 8 were more, but you could not locate 9 those documents? 10 A Yes. I'm missing Gannon 11 University and I'm missing the welfare 12 office, also. I applied there, and 13 some newspaper announcements. So I 14 still have those. 15 Q And I would just ask on the 16 record if you could please look through 17 your documents, your records to see if 18 you can produce that information. I 19 notice that the top two documents, one 20 is a letter dated December 12th, 2005, 21 thanking you for your interest in the 22 adult basic education teacher position, 23 then the second letter is dated June 24 1st, 2004, relative to the Luther 25 Memorial Learning Center School Board.</p>	<p>1 of that. But I never heard from them. 2 Q Because what this indicates, on 3 the second page of this document for 4 the Hispanic American Council of Erie, 5 is that you were to submit a r sum and 6 complete an application, but there's no 7 documentation from you that you 8 actually did submit an application. 9 A Yes, I did. And they have a 10 copy, I'm sure. But I can request a 11 copy on my r sum. I just gave them my 12 r sum and I took my professional 13 portfolio with me. And they had three 14 positions. One was employer officer. 15 One was extracurricular school, after 16 school, only a few hours. And the 17 other one, it was to help people to 18 stop smoking. But I was more 19 interested in the employment job kind 20 of officer. 21 Q Were you offered any job with 22 the Hispanic Council? 23 A None at all. 24 Q Okay. The next piece of 25 information is the Conroe School</p>

1 District?

2 A Yes. I applied on the Internet.

3 Q And it's the Monroe Independent

4 School District. And did you ever

5 receive any information from them,

6 giving an interview or any information?

7 A Yes. Just the information that

8 says, we did receive your application.

9 Q Right.

10 A And that's the only thing that I

11 received from them.

12 Q And you never received any other

13 information?

14 A Anything else. But I did send

15 --- as you can see, I applied via

16 Internet. And they never got back to

17 me.

18 Q The next piece of information is

19 with the Department of Public Welfare

20 relative to a job posting?

21 A Uh-huh (yes).

22 Q Did you apply for any of the

23 positions here?

24 A Yes, I did. It was for clerk

25 typist. It was the position that they

1 sorry, the Civil Service Commission

2 information, that you applied for each

3 of these positions?

4 A Yes.

5 Q And do you have any

6 documentation that shows that an actual

7 application was submitted other than

8 --- what you provided me are job

9 postings.

10 A Of course. I have to send all

11 my communication to them by mail. I

12 have to fill out an application, then I

13 file through the Internet. I fill out

14 information. That was the test, to

15 fill out the application and send it by

16 mail. Then I went to the interview,

17 and then they told me that they hired

18 somebody that was better because I

19 wasn't qualified.

20 Q Was there anything that you

21 kept, though, other than, you know,

22 some sort of an e-mail saying that your

23 application was received, or some sort

24 of information confirming that you had

25 an interview for any of these

1 had available. I wanted to see if

2 maybe by working as a clerk at the

3 welfare office, perhaps they will offer

4 me a job as a social worker working for

5 the welfare. But of course, I took the

6 test and they never got back to me.

7 I'm on the list.

8 Q You mean you took the civil

9 service exam?

10 A I took all of them, yes.

11 Q And do you have your results

12 anywhere?

13 A Yes. I would imagine they would

14 be there, but if not, I can probably

15 get them through the Internet. There

16 is one here, final earned report. This

17 one is 89. This one I cannot recall,

18 but probably I can download it.

19 Q Well, I'd appreciate if you'd

20 try to do that.

21 A This one is 89 for the several

22 positions.

23 Q And is it your testimony that

24 relative then to these other pieces of

25 paper with regard to the EEOC --- I'm

1 positions, other than what you've given

2 me here, which are these job postings?

3 Do you have any other information ---?

4 A This is not a job posting. This

5 is the interview, the evidence of the

6 interview.

7 Q And it says, do not ---.

8 A And I sent it to them and I went

9 to the interview. But they never got

10 back to me.

11 Q Do not report for an interview.

12 Okay. Now, with regard to these pieces

13 of paper also, where it says, for

14 example, score, final earned rating,

15 89, was that when you were saying you

16 were taking the test online?

17 A I actually filled out the form

18 in writing and I sent it to them along

19 with all my communication, my résumé.

20 I answered all the questions. And that

21 was the rating that they gave me, 89.

22 However, when I went to the interview

23 --- actually, I went to two interviews

24 in Albion Prison. They told me that

25 there were veterans that had

Page 18	Page 20
<p>1 preference. Because that's why they 2 couldn't give me ten points. I argued 3 that when my son died, because they 4 said that if I applied for a federal 5 job, they would give me ten points. 6 And I said, but when my son went 7 to fight in Iraq or was in Afghanistan, 8 he didn't fight only for the state, but 9 for the whole entire country of the 10 United States. So they should consider 11 giving me that because I was his 12 mother, to give me those ten points. 13 And although I called them and argued 14 about that, but they didn't want to 15 give me the extra ten points. So I 16 have only 89. 17 Q And you said that you actually 18 had two interviews. And that was for 19 Albion Prison, and what was the other 20 one? 21 A At the same place. 22 Q Oh, the same place? 23 A I went twice. 24 Q Okay. 25 A Yeah. I interviewed with the</p>	<p>1 nothing can get in it. The only way I 2 could retrieve anything is --- 3 actually, I don't think so. I will 4 have to erase everything. I've had 5 everything in a file for job 6 applications, and unfortunately, I 7 couldn't even bring those today. But I 8 can get copies for Albion Prison. I 9 can contact Mr. --- cannot recall his 10 name, and he can testify that I was 11 there for two different interviews. 12 I'm trying to think of his name. 13 Q Did you ever have an interview 14 with the Kiski Area School District? 15 A No. Oh, with the school 16 district, yes. Twice. 17 Q After last summer? 18 A It was last fall, the Erie 19 School District. That's something else 20 I'm missing. 21 Q No, the Kiski Area School 22 District. 23 A Oh, no, no. I'm talking about 24 Erie School District. 25 Q And when did you interview with</p>
Page 19	Page 21
<p>1 principal, as well, and human 2 resources. 3 Q The last two documents you gave 4 me are newspaper clippings. Now, the 5 first page, there does not appear to be 6 a date on this anywhere. 7 A Okay. Very sorry. I will let 8 you know. Which ones are you talking 9 about? 10 Q This page here where it says 11 Spanish teacher, Kiski Area School 12 District, it's circled. And then 13 French and Spanish and ESL substitute. 14 A That was last summer. 15 Q Okay. 16 A It was last summer that I was 17 --- and I'm still looking. 18 Q Did you ever apply to these? 19 A Yes. I sent a letter of 20 inquiry. 21 Q And did you keep a copy of that 22 letter? 23 A Yes. And unfortunately, it's in 24 my computer. And I wish I could fix 25 it, but my computer has a virus and</p>	<p>1 the Erie School District? 2 A In the fall. 3 Q Of 2005? 4 A Of last year, 2005. And they 5 said that they would consider my 6 application. And if they still have 7 the position, they'd call me. And the 8 principal interviewed me, and he told 9 me for kids. And I said, of course. 10 So I went there for one day at the end 11 of the day. He said, I'm sorry, but 12 the teacher is not going to retire yet. 13 She's coming back. If we need you, 14 we'll call you. But they never did. 15 Q Now, back to the Kiski Area 16 School District that you have circled 17 on the second to the last page of 18 Exhibit Three. That's the last page. 19 The one before that. Did you ever 20 interview there? 21 A No, no. I never heard from 22 them. I never did. 23 Q And what about with regard to 24 the substitute positions? 25 A I never heard from them. I just</p>

1 sent a letter of inquiry, a letter of
2 interest, along with my r sum. They
3 never even responded.

4 Q And you're saying this is the
5 summer of 2005?

6 A I think it was summer of last
7 year. And the summer before, I also
8 sent a couple, but they never respond.

9 Q And then this is the GBCAC ---
10 the text to the last page of this is

11 dated May 27th, 2005, as the deadline

12 for applications for the GBCAC

13 Community Charter School?

14 A Uh-huh (yes).

15 Q Did you send an application
16 there?

17 A Not for GBCAC. No, I did not.

18 Not for this one. It was a

19 possibility. And I felt sending an

20 application, or perhaps maybe go out in

21 person, but I was just looking for work

22 to seek work in the Erie School

23 District. So it was just put on

24 resource --- this is my resource page.

25 I did not apply there.

1 And I was hoping to get pay, and

2 she paid me only \$300. So it was just

3 right before she died. I left because

4 she was not paying me. So that was

5 another job. And then I started

6 working at Latino --- playing the

7 piano, only one day a week, and then

8 teaching also another day a week, on

9 Friday nights. That's it.

10 Q So essentially, is it fair to

11 say that the documents that you've

12 given me would encompass what you

13 applied to do in 2003 and 2004? And

14 then the only thing that's missing

15 would be ---

16 A Gannon University.

17 Q --- Gannon University, and that

18 would have been in 2005?

19 A And Erie School District. That

20 wasn't 2004, Gannon University. There

21 was an ad in the newspaper.

22 Q And Erie was 2005?

23 A And Erie was last fall.

24 Correct.

25 Q So essentially, Gannon

1 University and Eric are what's missing

2 from Exhibit Three?

3 A Right. Only two. Gannon and

4 Erie.

5 Q And then again, it's possible,

6 if you could just take a look for

7 information concerning those two job

8 possibilities and anything you might

9 have to verify that applications were

10 sent to these other employers, I would

11 appreciate that.

12 ATTORNEY HEATH:

13 Mr. Nichols, this is

14 probably the appropriate time on

15 the record for you to --- you

16 had indicated to me prior to the

17 deposition you wanted to address

18 my request for tax returns?

19 ATTORNEY NICHOLS:

20 Yes, Ms. Binder. You had

21 recently written a request for

22 Ms. de Leon's tax return for tax

23 years 2003, 2004, 2005, together

24 with a subpoena. We acknowledge

25 receipt of that. And the

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<p>1 Plaintiff's response to that 2 request is in the form of a 3 written submission, which I now 4 ask be marked Plaintiff's 5 Exhibit One. 6 ATTORNEY HEATH: 7 Or do you want to mark it 8 as Exhibit Four? 9 ATTORNEY NICHOLS: 10 Exhibit Four. Whichever. 11 (de Leon Exhibit Number 12 Four marked for 13 identification.) 14 ATTORNEY HEATH: 15 And are you denying my 16 request for the tax returns? 17 ATTORNEY NICHOLS: 18 As of this time. 19 ATTORNEY HEATH: 20 Okay. And you understand 21 that I will file a motion with 22 the Court? 23 ATTORNEY NICHOLS: 24 Understood. And there is 25 also another matter I would like</p>	<p>1 ask her questions, then we can 2 attach that --- 3 ATTORNEY NICHOLS: 4 All right. 5 ATTORNEY HEATH: 6 --- at the end. And I 7 understand what you're saying, 8 but --- 9 ATTORNEY NICHOLS: 10 Okay. 11 ATTORNEY HEATH: 12 --- just as a matter of 13 procedure, I think it would be 14 clearer this way. 15 ATTORNEY NICHOLS: 16 All right. 17 ATTORNEY HEATH: 18 That was marked as 19 Exhibit Four; correct? 20 COURT REPORTER: 21 Yes. 22 ATTORNEY HEATH: 23 I'd like to then mark as 24 Exhibits Five and Six, two 25 documents. One is the first</p>
Page 27	Page 29
<p>1 to bring to the --- reflect on 2 the record. I would ask that 3 this be marked Plaintiff's 4 Exhibit Five, I guess is 5 correct. 6 ATTORNEY HEATH: 7 And what is that? 8 ATTORNEY NICHOLS: 9 What this is, is Mr. 10 Amis, Lewis Amis, the Arbitrator 11 for the arbitration proceeding, 12 made an adjustment in the last 13 --- Ms. de Leon was suspended 14 for five days for ---. 15 ATTORNEY HEATH: 16 Okay. May I just stop 17 you for a second? 18 ATTORNEY NICHOLS: 19 Sure. 20 ATTORNEY HEATH: 21 Just as a matter of 22 procedure, I think the record 23 would be clearer if I just 24 finished my questions, and then 25 when you had your opportunity to</p>	<p>1 response to the Defendant's 2 Interrogatories, and then a 3 supplemental response. And I'm 4 going to ask that the court 5 reporter mark these and then 6 show them to the witness. 7 (de Leon Exhibits Five 8 and Six marked for 9 identification.) 10 BY ATTORNEY HEATH: 11 Q And looking at the --- I'm 12 getting ahead of myself now. This 13 would be Five and Six. Number Five 14 would be the Plaintiff's response to 15 Defendant's first set of 16 Interrogatories. Have you seen this 17 document before? 18 A Uh-huh (yes). Yes. 19 Q And in looking through this, and 20 I'll give you a couple minutes to look 21 through this, what I'm going to be 22 asking you is there's certain 23 information in here that's incomplete, 24 or at least from my perspective, it's 25 incomplete. And then I had then sent</p>

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<p>1 the request to your Counsel to have 2 additional answers provided, which then 3 are Exhibit Six. And have you seen 4 Exhibit Six before? And this is the 5 supplemental responses. 6 WITNESS REVIEWS DOCUMENT 7 AUh-huh (yes). Yes. 8 BY ATTORNEY HEATH: 9 QAnd looking to Exhibit Six, the 10 answer that was provided as a 11 supplemental response to number one, I 12 want you to take a look at subparts A 13 through E. And the question had asked, 14 was --- 15 ATTORNEY NICHOLS: 16 You're talking about 17 Five, Exhibit Five, right? 18 ATTORNEY HEATH: 19 I'm talking about Exhibit 20 Six because that has a 21 supplemental response. 22 ATTORNEY NICHOLS: 23 Which number, Ms. Heath? 24 ATTORNEY HEATH: 25 It would be Exhibit Six,</p>	<p>1 examples of when you believe that you 2 were abused, harassed and discriminated 3 against. 4 AAnd you're asking if I would 5 like to add something to this? 6 QIs there anything else that you 7 would like to add in response to that 8 particular question? 9 AIf I'm sure that I could add a lot 10 more information, and I can give you a 11 more definite detail. That's why I 12 wrote my chronology of events, in which 13 I cited every little detail of what had 14 took place. But we tried to summarize 15 everything and compound it into what 16 they did generally. 17 But if I was to go step by step 18 of the constant harassment, of the 19 constant abuse, of the constant double 20 standard, the different treatment when 21 other teachers really were totally 22 incompetent, then I would have to add a 23 great deal of information. I could add 24 my chronology of events to this, if 25 that's admissible.</p>
Page 31	Page 33
<p>1 which is supplemental responses, 2 the answer to number one. 3 ATTORNEY NICHOLS: 4 Okay. 5 BY ATTORNEY HEATH: 6 QAnd in both Exhibits Five and 7 Six, obviously, the questions will be 8 the same, but the answers are going to 9 be different in some cases. And 10 essentially, it looks to me as if you 11 were trying to provide more detail to 12 them than was provided in the original 13 answer to question one. 14 And I'm just asking you now, the 15 question was, set forth the bases of 16 your allegation in paragraph 20 of your 17 first amended complaint that you were, 18 quote, unlawfully abused, harassed, 19 suspended, fired and discriminated 20 against, end quote. And then you have 21 subparts A through E. And I'm asking 22 you to review that. And as you sit 23 here today, I'm asking if there's any 24 other information that you would wish 25 to add to that answer that shows</p>	<p>1 QI actually have it as an 2 exhibit. 3 AOkay. 4 QAnd let me just ask you this, 5 then. We're going to mark this as 6 Exhibit Seven. 7 (de Leon Exhibit Number 8 Seven marked for 9 identification.) 10 BY ATTORNEY HEATH: 11 QRelative to Exhibit Seven, you 12 had mentioned to me just now that the 13 chronology of events that you prepared 14 sets forth every detail about which --- 15 or on which you base this complaint, is 16 that correct? 17 ANot every detail. It's kind of 18 general information. But if I'm to 19 include every detail, I have to include 20 every letter, every piece of the 21 communication that I have, including 22 all the things that I have from 23 arbitration one, arbitration two, 24 arbitration three, which it was already 25 settled. And the records speak for</p>

1 themselves, but you're not allowed to
2 use that, but I am. And I'm using some
3 of this information. That can be a lot
4 more detailed. This is just a
5 chronology. It gives detail, but it is
6 not exactly every single detail of what
7 had took place.

8 Q This chronology was prepared for
9 what reason?

10 A To send it to human relations.

11 Q And that was what you based your

12 complaints on, correct?

13 A On everything. I gave the very

14 first complaint, which was on March

15 18th, which I was suspended. But I

16 mentioned to them, in order to

17 understand what is going on, the

18 history of the constant harassment and

19 abuse, I have to go back to the

20 beginning.

21 Q And is that what is contained in

22 this chronology of events?

23 A Part of it, because then I would

24 have to contain the arbitration one,

25 arbitration two, arbitration three, so

1 A Okay. Then I would like to
2 rephrase that. A general overview.

3 Q And you say this plus any

4 exhibits from the arbitrations would be

5 the entire record concerning your

6 harassment, is that accurate?

7 A Perhaps.

8 Q Well, it's your case.

9 A Because also, there are all the

10 misconduct slips that they were never

11 supported by the administration, every

12 single pink slip that I submitted. And

13 they did not discipline the students.

14 That's what I was talking about detail.

15 Every memo of reprimand.

16 For example, on arbitration

17 number two, when they accused me of all

18 these things, that they were going in a

19 very old trailer, 30-year-old trailer.

20 There was not even a thermostat, and

21 they were accusing me of tampering with

22 the thermostat. There was not even a

23 thermostat. I had to turn it on by

24 hand. Somehow, the janitor ---

25 Q Turn what on by hand?

1 you can see the history of the constant
2 harassment.

3 Q Well, what is the difference?

4 What is missing from this chronology

5 that you believe supports your case?

6 A Maybe my first and second and

7 third grievance, all the documentation.

8 Q And what documentation would

9 that --- what was not reflected in this

10 chronology? This chronology dates

11 back ---

12 A Every single detail, every

13 discipline problem, every time that

14 abuse, consistently harassing me,

15 insulting me, and he was not

16 disciplined. And then the School

17 District, what did they do, they sat on

18 my discipline problem. They were

19 looking ---

20 Q But my question is, in looking

21 at this chronology of events, first,

22 you testified that it essentially puts

23 forth the details of what you base your

24 claim of harassment on, and

25 discrimination.

1 A I had to turn on the heat by
2 hand. There was no thermostat until
3 later on, they came and installed one.

4 But then, all these little memos

5 saying, she was tampering with the

6 thermostat. There was no thermostat.

7 Then the temperature was extremely hot.

8 I didn't turn it on. I turned it off

9 when I left. Somebody turned it on.

10 Then nails found on the floor

11 from chairs that you need a special

12 kind of tool, they were not my

13 students. The doors were rotten. They

14 were not my students that were breaking

15 the door. But they accused me of every

16 little detail. I have all this

17 documentation, all these little memos,

18 which even Dr. Berkebile said, if you

19 continue breaking this classroom,

20 you're going to be moved in the

21 schedule again. And I said, Dr.

22 Berkebile, this is a very old trailer.

23 And I mentioned to him all the details.

24 The windows, they couldn't even be

25 opened.

1 QLet me just stop you there.

2 Looking at the chronology of events
3 that you have here, it seems to me,
4 upon reviewing it, it's pretty

5 detailed, and it looks to me as if you

6 had kept some sort of supplemental

7 notes or log or something, because you

8 have specific dates, specific instances

9 recalled, quotes in some cases as to

10 what the administrators had said to

11 you. So is there another logbook that

12 was the basis for writing this

13 chronology?

14 AThe documentation.

15 QOr ---

16 AThe reprimands.

17 QAre you referring, in this

18 chronology, to the reprimands and the

19 other memos and other information that

20 you have?

21 AIn general, everything.

22 QDo you understand that when you

23 have a case like this, in order to

24 prove your case, if you're going to

25 rely on documentation, you have to

1 AOf course. I wrote it. And I

2 was just reviewing this with Cal. And
3 also ---

4 QI just want to know if you've
5 looked at it recently.

6 AYes.

7 QIn your review of this

8 particular document, was there anything

9 that struck you as being a gap in

10 information or some glaring omission

11 that you wish to tell me today under

12 oath that you want to add to this

13 chronology of events?

14 ATTORNEY NICHOLS:

15 Let us have a moment to

16 review and see ---

17 ATTORNEY HEATH:

18 Okay.

19 ALet me review these, because

20 maybe they are missing some copies.

21 And I realized that when I was

22 reviewing. But I went over it and I

23 thought, they are missing some copies

24 of this one.

25 BY ATTORNEY HEATH:

1 QTake your time and review it

2 because I don't really want you to

3 speak off the top of your head. I want

4 you to take the time so that I'm clear

5 what your allegations are.

6 OFF RECORD DISCUSSION

7 BY ATTORNEY HEATH:

8 QJust in order to save time and

9 move on, you've indicated when we were

10 off the record that you believe that

11 this may not be a complete document?

12 AI knew that it was missing some

13 pages. I would like you, before you

14 submit this as evidence, to go back and

15 review in more detail because I realize

16 that they were missing some pages. I

17 wanted to include all my grievances.

18 There are three given.

19 QAnd may I just stop you there?

20 AGo ahead.

21 QI received this from your

22 Counsel, this document. Certainly, I

23 want it to be complete. So I would

24 request on the record, and we are

25 running short of time here to complete

<p>Page 42</p> <p>1 the discovery process, that you review 2 this, and if there gaps in information, 3 kindly provide that to your Counsel so 4 that he can provide it to me as soon as 5 possible. 6 A Correct. I will. 7 Q Because also, I will tell you 8 this. This chronology of events, you 9 gave me a folder of what you had given 10 to Mr. Flipping at the PHRC, this 11 chronology of events was included. And 12 from my review of this document that 13 was presented by your Counsel, and also 14 the document that was in the PHRC 15 folder, they looked to be the same to 16 me. Now, I'm saying that, but again, 17 the pages aren't numbered. So if you 18 are aware of any gaps, I would request 19 that you provide that to me as soon as 20 possible. 21 A Yeah. I will go ahead in more 22 detail. I will review that to make 23 sure I have everything. You have to 24 understand, every time I read that 25 chronology of events, I get a</p>	<p>Page 44</p> <p>1 BY ATTORNEY HEATH: 2 Q But this is dated 12/20 of '02. 3 But then there's a notary statement 4 here that's December 20th of '05. I 5 don't understand why there is this 6 disparity of dates on the last page. 7 A Oh, it should say '05. That was 8 a mistake. My mistake. 9 Q So that is your handwriting that 10 you did give testimony, --- 11 A Yes. 12 Q --- and your signature there? 13 A And the date is wrong. It 14 should say '05. 15 Q So that should say 12/20/05, as 16 well? 17 A Correct. 18 Q And when did you prepare this 19 document? 20 A When Mr. Nichols asked me to do 21 it, I went ahead and did like a quick 22 review. It's not as detailed --- I 23 wish I could have submitted this 24 chronology of events to the Judge. 25 Q If you look to the first page of</p>
<p>Page 43</p> <p>1 stomachache because this is like going 2 back to the same, over and over. But I 3 will do it again and rewrite it. Well, 4 not rewrite it, but review. 5 Q Please review it. This we'll 6 mark as Exhibit Eight. 7 (de Leon Exhibit Eight 8 marked for 9 identification.) 10 BY ATTORNEY HEATH: 11 Q And I'm going to ask you to take 12 a look at this. If you look at the 13 last page, this appears to be a sworn 14 statement and was notarized? 15 A Uh-huh (yes). Correct. 16 Q Dated 12/20 of '02? 17 A Correct. 18 Q Do you recall why this was 19 prepared? 20 A Yes. My Counsel asked me to 21 prepare these so I could give kind of 22 an idea to Mr. McLaughlin, the Judge. 23 ATTORNEY NICHOLS: 24 Judge McLaughlin. 25 A Judge McLaughlin.</p>	<p>Page 45</p> <p>1 Exhibit Eight, it says, chronology of 2 events as soon as the second 3 arbitration was awarded on my behalf. 4 But you're saying you didn't prepare 5 this until 2005? 6 A Right. 7 Q And that you were just trying to 8 recount what happened from --- 9 A Correct. 10 Q --- 1997 forward? 11 A And I'm missing my first 12 arbitration, as well. 13 Q But I'm saying, this is just 14 representative of something that you 15 prepared in anticipation of this 16 litigation? 17 A Right. 18 Q Or in the course of this 19 litigation, I should say. 20 A In the course of this 21 litigation. 22 Q And it goes from the date of the 23 second arbitration award forward; is 24 that correct? 25 A It should be from the first one.</p>

<p>Page 46</p> <p>1 Q But I'm asking what this is. It 2 goes from the second arbitration award 3 forward; --- 4 A Correct. 5 Q --- correct? And this 6 information, is this the same 7 information --- or some of the same 8 information that was contained in the 9 prior exhibit I showed you? 10 A Correct. 11 Q The larger chronology of events? 12 A Some of it. 13 Q And can you tell me as you sit 14 here today what's different? 15 A The difference --- 16 Q Other than --- I'm not talking 17 about the time frame from before August 18 of 1987. I understand in Exhibit 19 Seven, there's prior information 20 included. 21 A Right. 22 Q But in this particular document, 23 Exhibit Eight, is there anything 24 different that's included in this 25 particular chronology that you prepared</p> <p>Page 47</p> <p>1 in 2005 as opposed to the other 2 chronology that you submitted to the 3 PHRC? 4 A Right. This is supposed to be 5 more in detail. 6 Q Exhibit Seven? 7 A Exhibit Seven. And this one, it 8 was just like a general view of what 9 had took place. But it's not as 10 detailed as the other one. However, 11 that's why I am not sure if I'm 12 answering the question when I keep 13 going back to this. The grievances 14 already dealt with all these issues in 15 more detail to find out exactly what 16 had took place. I'm sure that you 17 already read them. That was already 18 dealt with. And all the information is 19 just right there. This is just a 20 chronology. 21 Q This is your basic overview? 22 A Right. 23 Q Okay. And I apologize for 24 jumping around, but I'm trying to at 25 least keep the same issues together.</p>	<p>Page 48</p> <p>1 Going back to the Interrogatories and 2 the supplemental responses to the 3 Interrogatories, which were Exhibits 4 Five and Six, if you look to Exhibit 5 Six, number four, question number four, 6 it says, set forth the bases of your 7 allegations in paragraph 21(c) of your 8 first amended complaint. The 9 administration of Crawford Central 10 School District sought to, quote, 11 muzzle or forbade, end quote, you from 12 conversing with colleagues in the 13 workplace. 14 And I said, please provide 15 specific examples, incorporated by 16 reference, all supporting data and 17 documentation. And your answer was, 18 Plaintiff will be available to address 19 query when she is deposed. So I'm 20 asking you now to answer that question. 21 A That time when he was screaming 22 and yelling to me, that's when he 23 forbade me. And also, we dealt --- 24 Q He being Mr. Deshner? 25 A Mr. Deshner. And we dealt with</p> <p>Page 49</p> <p>1 this in our second arbitration. 2 Q And was this anything to do with 3 the testimony of Mr. Stanford? 4 A Well, he already mentioned that 5 he'd walk away and he couldn't hear 6 everything. He couldn't hear 7 everything. But it's already dealt 8 with on the second arbitration. 9 Q Well, let me put it to you this 10 way. And I don't want to get into a 11 legal argument with you on the record. 12 But from my perspective, there is an 13 issue as to whether or not any of the 14 arbitration Decisions are going to come 15 before the Judge. Even if Judge 16 McLaughlin allows them into evidence, 17 they are merely going to be persuasive 18 and they are not determinative of any 19 facts in this federal case. 20 So the problem that I continue 21 to face is, many of the times, your 22 answers are, look at the arbitration or 23 look at the grievance. One of the 24 problems I have with that, too, is I 25 don't have any of the transcripts. And</p>
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<p>1 your Counsel doesn't have the 2 transcripts. So I can't even look at 3 the testimony specifically to see --- 4 A Just go --- 5 Q--- what you're relying on. All 6 I have are all the Decisions. And we 7 don't know whether or not the Court is 8 going to even entertain those Decisions 9 and allow them into evidence. But it's 10 not good enough for you to tell me in 11 this lawsuit, look at the arbitration 12 Decision. So you have to give me more 13 than that. 14 And I'm trying to give you some 15 leeway because I don't want to depose 16 you for five days when you say in the 17 previous answers, look to the 18 arbitration or look to what the 19 arbitration award says. I understand 20 what you're saying, but I'm asking you, 21 what do you recall --- as you sit here 22 today, what is your independent 23 recollection of specific issues or 24 examples where the Crawford Central 25 School District sought to, quote,</p>	<p>Page 50</p> <p>1 abused me and harassed me --- 2 Q I'm trying to get a time frame 3 from you. I want to know what 4 happened. And you're telling what 5 happened now. I want to know where it 6 happened, I want to know when it 7 happened, and I want to know who saw it 8 happen. 9 A Mr. John Stanford was there. He 10 saw it happen, but he couldn't hear it 11 at all. But he said he walked away. 12 And we were talking exactly outside the 13 office. And I was talking to John, but 14 he said I was crying because I was 15 constantly being reprimanded for 16 anything. 17 Q Okay. That's my question. 18 A Okay. 19 Q That's one instance. And I 20 understand what you're saying happened. 21 I understand that is your position. 22 Are there any other instances that 23 you're referring to when you say in 24 your complaint that the District sought 25 to muzzle or forbade you from</p> <p>Page 52</p>
<p>1 muzzle or forbade you from conversing 2 with colleagues in the workplace? 3 A And I'm very sorry. I don't 4 want to be rude to you because I know 5 it's your job. I know it's your job. 6 I already dealt with this. 7 Q But then you understand this is 8 a separate lawsuit in a separate forum? 9 A And I do understand. I do 10 understand. I do understand. And it's 11 my word --- Mr. John Stanford said he 12 talked to her stern in a loud voice, 13 and he'd walk away. Now, it's my word 14 against Deshner, which I don't have to, 15 I don't want to say this word, lie. 16 I'm telling you what he told me. He 17 forbade me to talk to any of my 18 colleagues about anything, yelling and 19 spitting on my face, just when I was 20 telling him that they did fire me. 21 Q What I'm trying --- 22 A All the abuse, it was enough. 23 All this abuse, it was enough. And I 24 said, whatever you have done --- they 25 have no conscience. The way they have</p> <p>Page 51</p>	<p>1 conversing with colleagues? Is there 2 anything else, other than that other 3 issue we talked about? Is there any 4 other instance you can tell me, any 5 other example you can think of? 6 A I can think of that one, and I 7 will have to go ahead and if I can find 8 a memo, perhaps --- I'm just going to 9 stay with that instance. But that 10 doesn't mean I'm not going to look for 11 maybe perhaps something that he says 12 about confidentiality. When the whole 13 entire school knew I was getting fired, 14 talking about confidentiality. That's 15 exactly what he did, told the whole 16 entire parents, told the whole entire 17 students, she's getting fired. 18 Q But what you say here, you're 19 specifically talking about 21(c) of 20 your first amended complaint, instances 21 where they sought to muzzle or forbade 22 you from conversing. 23 A He did. He forbade me from 24 talking to my colleagues. 25 Q And that's what I'm asking you.</p> <p>Page 53</p>

Page 54	Page 56
<p>1 Is that the example you're using?</p> <p>2 A I'm using that, exactly, that</p> <p>3 day. We dealt with it in my third</p> <p>4 arbitration.</p> <p>5 Q And you say here, number five,</p> <p>6 I'm asking you again about paragraph 21</p> <p>7 of your amended complaint, but this</p> <p>8 time it's 21(c). And you say that</p> <p>9 you're more stringently micromanaged,</p> <p>10 scrutinized and subjected to a</p> <p>11 professional improvement action plan.</p> <p>12 And what I was asking you is to set</p> <p>13 forth the bases of that allegation.</p> <p>14 And what you said here is, in addition</p> <p>15 to the allegations set forth in answer</p> <p>16 one, which we've already talked about,</p> <p>17 and that would be in Exhibit Six, a</p> <p>18 more complete statement is stated in</p> <p>19 the amended complaint which was filed</p> <p>20 with the PHRC. Are you satisfied with</p> <p>21 that response?</p> <p>22 A I'm very, very sorry, but I ---</p> <p>23 on this one about the action plan,</p> <p>24 where is it where you read the rest?</p> <p>25 ATTORNEY NICHOLS:</p>	<p>1 Do you have a copy of</p> <p>2 that?</p> <p>3 ATTORNEY HEATH:</p> <p>4 I don't know where it is</p> <p>5 right now, but I did.</p> <p>6 BY ATTORNEY HEATH:</p> <p>7 Q But this is what you're</p> <p>8 referring to?</p> <p>9 A Uh-huh (yes).</p> <p>10 Q And this is what you answered</p> <p>11 when I asked the question in the</p> <p>12 Interrogatories.</p> <p>13 A Yes.</p> <p>14 Q Did you review that statement</p> <p>15 before you answered this question?</p> <p>16 A This statement?</p> <p>17 Q The statement that you sent to</p> <p>18 the PHRC.</p> <p>19 A I did review this.</p> <p>20 Q And when you responded to number</p> <p>21 five in your supplemental responses,</p> <p>22 and I'm looking at that in conjunction</p> <p>23 with your initial responses, ---</p> <p>24 A Yes.</p> <p>25 Q --- are you satisfied with that</p>
Page 55	Page 57
<p>1 The supplement she is</p> <p>2 reading.</p> <p>3 A Oh, this supplement. I see. I</p> <p>4 did not read that. Okay.</p> <p>5 BY ATTORNEY HEATH:</p> <p>6 Q And you're referring to a</p> <p>7 statement that was filed with your</p> <p>8 amended complaint to the PHRC on</p> <p>9 February 18th, 2003. And I'm asking if</p> <p>10 you're satisfied with your response</p> <p>11 that you provided to the PHRC. Is that</p> <p>12 an adequate response to my question?</p> <p>13 Because if not, this is your</p> <p>14 opportunity to supplement that</p> <p>15 response.</p> <p>16 A In addition to what I wrote here</p> <p>17 on number five, you're talking about if</p> <p>18 I can also ---?</p> <p>19 ATTORNEY NICHOLS:</p> <p>20 Counsel, did you receive</p> <p>21 a copy of Ms. de Leon's</p> <p>22 submission to the PHRC?</p> <p>23 ATTORNEY HEATH:</p> <p>24 I did.</p> <p>25 ATTORNEY NICHOLS:</p>	<p>1 response?</p> <p>2 A I'm not sure that I'm satisfied.</p> <p>3 I hope I do --- when I submitted most</p> <p>4 of the documentation, I just want to</p> <p>5 make sure that you understand that I</p> <p>6 was under a great deal of anxiety,</p> <p>7 depression. It was extremely difficult</p> <p>8 for me to concentrate on all this. I</p> <p>9 did my best trying to submit the best</p> <p>10 information.</p> <p>11 Q But I want to stress to you that</p> <p>12 under the law, you have a continuing</p> <p>13 obligation to supplement your</p> <p>14 responses. If you don't, then this</p> <p>15 will be the response that's adequate.</p> <p>16 You can either do it with your</p> <p>17 testimony, such as today, or other</p> <p>18 documentation. So what I'm allowing</p> <p>19 you to do, in looking at these</p> <p>20 Interrogatory answers, because in many</p> <p>21 instances, you and/or your Counsel have</p> <p>22 stated that I can ask you in your</p> <p>23 deposition. That's what I'm doing.</p> <p>24 But this is your opportunity to</p> <p>25 give me your side of the story, to give</p>

<p>Page 58</p> <p>1 me your case. And if you don't 2 supplement your responses, then what 3 you have before you is what's going to 4 be admissible. So I just want you to 5 be clear on that. So if you continue 6 to tell me, I'm not sure, there might 7 be something else, if, in fact, there 8 is something else, at some point, you 9 have to give that to me. 10 A Okay. 11 Q Okay? 12 A I will go ahead and review them. 13 Because I did submit as much --- I 14 prepared a whole entire portfolio and I 15 gave it to my lawyer. And that doesn't 16 mean that includes everything. I'm 17 consistently giving more documentation 18 in order for me to be able to submit 19 more information that can back up all 20 my claims. But I --- 21 Q I just want to make sure that 22 you're comfortable with what you've 23 given me and that I have everything 24 that you believe supports your claim. 25 A Correct. And also, I would like</p>	<p>Page 60</p> <p>1 ATTORNEY NICHOLS: 2 --- of disclosure. 3 That's what I want the record to 4 reflect. 5 ATTORNEY HEATH: 6 That is fine. 7 ATTORNEY NICHOLS: 8 All right. 9 BY ATTORNEY HEATH: 10 Q If you look to Exhibit Six --- 11 or, number six, actually, question six, 12 I asked for the bases of your 13 allegations in paragraph 21(e) that you 14 were sanctioned for tardiness more 15 frequently than co-workers. And you 16 said that you would be available to 17 address the query when deposed. So do 18 you have any specific instances about 19 which you are aware where other 20 teachers were not treated the same way 21 that you were? 22 A Correct. 23 Q And I --- 24 A I was placed on hall duty for a 25 whole entire year, on hall duty, just</p>
<p>Page 59</p> <p>1 to add that if you need, I will submit 2 more documentation that I can --- I 3 hope I can. I don't know when is the 4 due date that I cannot submit any more 5 documentation that is applicable. 6 ATTORNEY NICHOLS: 7 And also, let me just 8 state for the record, in respect 9 to the documentation that has 10 been submitted, you know, that 11 speaks for itself, one. We 12 covered it. Two, as to whether 13 or not at this junction, whether 14 what we have put in the file is 15 complete, we can't make that 16 representation because the 17 discovery's not complete. We 18 will depose more witnesses, to 19 do more discovery, it may well 20 be that we have more 21 documentation to divulge to you. 22 We do recognize our continuing 23 obligation --- 24 ATTORNEY HEATH: 25 That's fine.</p>	<p>Page 61</p> <p>1 right at the door. And I documented 2 many of the teachers' arrivals, and I 3 have the communication. I have it on a 4 memo with every single teacher that 5 came consistently late. However, when 6 I was being harassed because they 7 refused me union representation, next 8 thing, they started bringing that up, 9 when Mr. Deshner called me to his 10 office, he showed me all these tardies. 11 And I proved to him that they 12 were wrong because I was sitting in 13 study hall and I was even talking to 14 the counselor. I was able to prove 15 that they were totally wrong, but he 16 did not address the fact that he denied 17 me union representation. He showed me 18 all these tardies. Even by Mr. Higgins 19 recently, this teacher stops me to ask 20 me for a special ed student. 21 Q Okay. I understand what you're 22 saying, but let me just stop you there. 23 With regard to the tardy issues, these 24 were addressed in your chronology; 25 correct?</p>

Page 62	Page 64
<p>1 ACorrect.</p> <p>2 QAnd there were certain teachers</p> <p>3 that were mentioned in your</p> <p>4 chronology ---</p> <p>5 AYes.</p> <p>6 Q--- that you believe were</p> <p>7 treated more favorably than you were?</p> <p>8 AThey were never reprimanded.</p> <p>9 QAnd how do you know that?</p> <p>10 ABecause I asked them.</p> <p>11 QBut you don't have any</p> <p>12 independent knowledge other than asking</p> <p>13 them whether or not they were ever</p> <p>14 reprimanded?</p> <p>15 AWell, for example, I asked Mrs.</p> <p>16 Rappa when they sent me a memo, because</p> <p>17 I allow my students to leave early, I</p> <p>18 told Dr. Berkeley, I'm not even</p> <p>19 teaching during the eighth period. I'm</p> <p>20 assigned at the cafeteria. And Mrs.</p> <p>21 Rappa did because I asked her, are you</p> <p>22 teaching in my classroom? And she said</p> <p>23 yes. Did you allow your students to</p> <p>24 leave early? She said yes. And I</p> <p>25 would like to subpoena her. Did they</p>	<p>1 soon as I said, I'm going to court, I'm</p> <p>2 going to fight you, oh, you're very</p> <p>3 physically aggressive. How can I? I'm</p> <p>4 a Christian person. I'm a student of</p> <p>5 the Bible. How could I be physically</p> <p>6 aggressive?</p> <p>7 QYou're getting off on a tangent.</p> <p>8 AI know. I'm going to try ---</p> <p>9 QAnd I'm trying to ask you some</p> <p>10 specific questions concerning other</p> <p>11 teachers and tardiness, okay? One of</p> <p>12 the people that you mentioned in your</p> <p>13 chronology was a Mrs. Sylka, S-Y-L-K-A.</p> <p>14 Isn't her name Mrs. Raman?</p> <p>15 AYes.</p> <p>16 QAnd her first name is Sylka?</p> <p>17 ACorrect.</p> <p>18 QSo it's Mrs. Raman? That's not</p> <p>19 Mrs. Rappa or somebody else?</p> <p>20 AI's Sylka Raman. I didn't make</p> <p>21 a mistake.</p> <p>22 QWhen you're saying about Mrs.</p> <p>23 Rabba, is that the same person?</p> <p>24 ARappa (corrects pronunciation).</p> <p>25 No. Rappa. That's the physical ed</p>
Page 63	Page 65
<p>1 reprimand you? She said no.</p> <p>2 QYou're saying Mrs. ---?</p> <p>3 AMrs. Rappa.</p> <p>4 QRabba?</p> <p>5 ARappa.</p> <p>6 QRappa.</p> <p>7 AWhich I don't know if she's on</p> <p>8 my witness list. And she was not</p> <p>9 reprimanded. And many other teachers,</p> <p>10 I asked them, were you reprimanded?</p> <p>11 No. Were you reprimanded for taking</p> <p>12 your students out of your classroom?</p> <p>13 No. Were you reprimanded for taking</p> <p>14 them out of your classroom and walking</p> <p>15 around? No. If they were standing</p> <p>16 outside? No.</p> <p>17 I was reprimanded when I even</p> <p>18 didn't do it. But Mr. Higgins says,</p> <p>19 oh, yeah, she took them out. No, I did</p> <p>20 not. I sent them to the office. I</p> <p>21 followed directives every inch of the</p> <p>22 way. I could've kissed their feet, and</p> <p>23 you know what they would have said?</p> <p>24 She was trying to buy us. Although I</p> <p>25 complied with every directive. But as</p>	<p>1 teacher.</p> <p>2 QOkay. But Sylka Raman, it isn't</p> <p>3 Mrs. Sylka. It's Mrs. Raman?</p> <p>4 AMrs. Raman. Correct.</p> <p>5 QOkay. And she's German;</p> <p>6 correct?</p> <p>7 AYes, she is.</p> <p>8 QAnd you had also mentioned in</p> <p>9 your chronology that you think Doug</p> <p>10 Meholk was not reprimanded for being</p> <p>11 tardy; is that correct?</p> <p>12 ANever.</p> <p>13 QHow do you know that?</p> <p>14 AWhen I was there, Mr. Berkeley</p> <p>15 and Mr. Deslmer looked at him and</p> <p>16 greeted him and continued walking like</p> <p>17 nothing.</p> <p>18 QBut you don't know for a fact</p> <p>19 that he was or wasn't reprimanded?</p> <p>20 AI'm sure that if they subpoena</p> <p>21 him, I'm sure that he's going to say</p> <p>22 that he did. But I would like to see</p> <p>23 the documentation on any of these</p> <p>24 teachers.</p> <p>25 QBut you don't have anything to</p>

<p>Page 66</p> <p>1 prove that they weren't reprimanded? 2 A I saw them. I saw them that 3 they weren't. 4 Q And essentially, it would be 5 something that you would not be privy 6 to because it would be a personnel 7 matter? 8 A That's right. But they were 9 able to know about mine. 10 Q You also discuss a Debbie 11 Lemansky. 12 A She walked with me the day I was 13 given a tardy. 14 Q Wasn't it true that she had a 15 different schedule, she was permitted a 16 different, flexible schedule? 17 A Why? 18 Q Well, were you aware that she 19 was? 20 A But why? 21 Q Well, there's issues of 22 confidentiality here. 23 A Oh, I see. 24 Q But were you aware that she was 25 on a different schedule?</p>	<p>Page 68</p> <p>1 vulnerable person that they can walk 2 all over. And they don't care. They 3 have their job. Why should they care? 4 They're going to come and say, oh, 5 yeah, yeah, she even tried to hit 6 Deshner, like Mr. Roznowski said. 7 Q What about Meg Daniels? You 8 indicated you believe she was tardy, 9 also. 10 A She's the one who stopped me to 11 ask me about the special ed kids ---. 12 Q Was this when Mr. Higgins spoke 13 to you? 14 A Mr. Higgins gave me a tardy but 15 never went to investigate her. And she 16 had class, as well, as you can see on 17 her schedule. And I asked her. 18 Q I'm just trying to ask you about 19 the time frame you're talking about 20 with Meg Daniels. 21 A And I asked her, I said, did 22 they give you a tardy like they did to 23 me? She said no. And I said, well, 24 the day that you talked to me, they 25 gave me a tardy.</p>
<p>Page 67</p> <p>1 A And there's another teacher that 2 walked with me late as well. 3 Q And also, isn't Debbie Lemansky 4 a secretary, not a teacher? 5 A And also there was another 6 teacher that walked with me. 7 Q I'm asking about Debbie 8 Lemansky. 9 A Yes, she's the secretary. 10 Q And so she would be on a 11 different schedule? 12 A I'm not sure. I don't know. 13 Q Okay. You wrote these people's 14 names down? 15 A Right. I wrote the time of 16 these teachers. I did. And I kept 17 them on a daily basis, how late they 18 are each day, did they get a memo each 19 day. I would like to see the 20 documentation of each day. I know 21 they're going to come and say yes 22 because they're afraid for their job, 23 of being harassed like I did. They 24 don't have any backbone to stand for 25 their rights. As long as --- I'm the</p>	<p>Page 69</p> <p>1 Q Wasn't it that you were just 2 reminded that you were supposed to be 3 on time? You weren't actually given 4 anything in writing? 5 A He gave me in writing --- it is 6 in writing. I have it in writing. 7 Q You weren't reprimanded or 8 disciplined in any other way? 9 A No, no. I wasn't. 10 Q Wasn't it just a reminder that 11 as part of your corrective action plan, 12 you were to be on time? 13 A It's not a reminder. It's a 14 tardy. Do you have a copy of that? 15 Q But as your corrective action 16 plan, you were to be on time, correct? 17 A I was always on time. 18 Q But wasn't that part of your 19 plan? 20 A I was always on time. 21 Q So when Mr. Deshner recalled 22 that there were students standing out 23 when you were at the trailer in the 24 snow because you were late, that was 25 not correct?</p>

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<p>1 A I wasn't late. And we already 2 dealt with those issues. The records 3 speak for themselves on my first, 4 second and third arbitration. 5 Q And again, I disagree. This is 6 a different case. 7 A Correct. 8 Q And I disagree that the merits 9 on those two arbitrations were decided. 10 So you disagree ---? 11 A But we already dealt with those 12 issues and those tardies. 13 Q And that is not sufficient 14 evidence to say that in a federal 15 action. 16 A Did you read the letter? I have 17 the letters that my students said that 18 they were never out there. 19 Q You have to answer my question. 20 ATTORNEY NICHOLS: 21 Don't yell at her. 22 A I'm sorry, I'm sorry. I don't 23 want to be --- let me tell you 24 something. 25 BY ATTORNEY HEATH:</p>	<p>1 Many times, if I was a minute or two 2 late, many times, because also they 3 stopped me in the classroom, and then 4 I'd have to run to a different 5 classroom, running and trying to speak 6 with my students. If I was tardy 7 because of the traffic or because of 8 not being able to walk around or park 9 my car, grab my things, run to the 10 other classroom, it's not because I was 11 being unprofessional. It's because 12 they refused me the right to have my 13 classroom. 14 Q Are you saying that you may have 15 been tardy, but only after you became a 16 traveling teacher? Is that what you're 17 saying? 18 A I was a traveling teacher for 19 almost the whole entire time I was 20 there until the last few years. And I 21 was not late because I wanted to. 22 There was a blind student in my class. 23 If the aide didn't come to pick him up, 24 I wasn't allowed to leave him alone. 25 And I wrote memos to Mr. Deshner</p>
Page 71	Page 73
<p>1 Q Hold on one minute. 2 A I'll be just like ---. 3 Q Hold on a minute. 4 BRIEF INTERRUPTION 5 BY ATTORNEY HEATH: 6 Q Now you can finish. 7 A There is a letter that my 8 students wrote that says they were not 9 stupid to be standing out there in the 10 snow. They wrote it themselves. They 11 sent it to Mr. Deshner. They would 12 never wait outside in the snow. That 13 was my Spanish 5 class. And I don't 14 know if he --- I have the letter. Did 15 you provide that letter from my Spanish 16 5 class? 17 Q So is it your testimony that you 18 were never tardy throughout the whole 19 time you taught here? 20 A I'm going to tell you that since 21 I was a traveling teacher and I had to 22 walk to the students, trying to steer 23 my portable car, which now I have a 24 mark on my chest from pushing and 25 pulling that car that was so heavy.</p>	<p>1 saying, the aide is not picking up this 2 kid. And they would give me tardies 3 for coming to study hall. I told him, 4 this student suffered convulsions. The 5 mother told me. I cannot leave him 6 alone. 7 And then when he brought this to 8 this lady, the teacher, and she said 9 that she was never tardy. And the 10 student said himself, she was always 11 late, which would make me late. So 12 when I was late, it was not because I 13 was being unprofessional and I wanted 14 to be late. I was late, yes, because 15 of the circumstances. 16 Q So your testimony is that you 17 may have been tardy, but either it was 18 because you were a traveling teacher or 19 there were other reasons, such as 20 staying with a student waiting for an 21 aide? 22 A Very extenuating circumstances. 23 Q Were there any times that you 24 were tardy just because you were tardy? 25 A On one occasion when the weather</p>

1 I was extremely bad, I arrived with Mrs.
2 Maruzka, and we were walking, the two
3 of us. I received a tardy. She
4 didn't. And Mr. Deslmer referred to
5 her when she is delayed. However, I
6 was tardy. If she was delayed, she
7 always called. There were no cellars
8 at that time, but I was always tardy.
9 So I don't know when she called. There
10 were no cellars, but she called. I
11 didn't. So yes, I remember that time
12 in which I wrote him a memo about it.
13 Q Any other time that you were
14 tardy that you can recall that didn't
15 involve extenuating circumstances?
16 A Most of the time, I was there
17 way before. I usually tried to be
18 there on time and I tried to be there
19 earlier than my usual period scheduled,
20 because since I was a traveling
21 teacher, I had to go and pick up my
22 car, I had to get my things from my
23 office and then move from classroom to
24 classroom to classroom. Then when
25 finally they gave me a classroom, it

1 prior to taking your medical sabbatical
2 leave. And then you said --- I don't
3 know what you were saying about when
4 you became a traveling teacher, but
5 then it seemed to me you were saying
6 that basically, you were a traveling
7 teacher for most of the time that you
8 were there. But from this response, it
9 doesn't seem to have happened until
10 1999. But you were in the trailer
11 prior to 1999; correct?
12 A That was my classroom when he
13 gave me a classroom.
14 Q And prior to that, you were
15 traveling or ---?
16 A Prior to that, yeah. The first
17 time they gave me a classroom, that DD,
18 the trailer, and then when they
19 finished building the school I came
20 back --- no, no, not came back. Way
21 before that, I was an aide. Actually,
22 before I moved into the trailer, they
23 had given me one classroom. It was
24 A-1. Then since they were remodeling
25 the school, then they moved all the

1 I was in the trailers. And when I had to
2 go to the office and I went into the
3 trailers, I'd have so much trouble
4 because the trailer was breaking apart.
5 They told me, you have to close the
6 trailer. Make sure that it's not ---
7 there was the other door open all the
8 time because there was another teacher.
9 So my students, there is no way that
10 they could just be there and be reading
11 because there was another classroom.
12 Q Okay. Let's move on from the
13 tardies. Looking at Exhibit Six ---
14 A Six or Seven?
15 Q And when I say Exhibit Six, I'm
16 also looking at it in conjunction with
17 Five because you responded once and
18 then you responded again. So I'm
19 looking at Five and Six together,
20 question eight. And I asked you to set
21 forth the bases of your allegation in
22 paragraph 22(b) in your first amended
23 complaint, that you were reduced to a
24 position, quote, inferior, end quote,
25 to the one you allegedly possessed

1 foreign language teachers to the
2 outside. And they changed ---
3 Q So it wasn't just you that moved
4 to the outside? There were other
5 teachers?
6 A There were several. All the
7 foreign language. All the foreign
8 language. Janine, Mr. Ehrnars
9 (phonetic), myself, and there was a
10 special ed teacher beside me, because
11 you went through that door and then you
12 could go into my classroom. And that
13 door was not locked. Then what
14 happened is that they gave me that
15 classroom. I had A-1. They gave me
16 DD.
17 And then I was suspended by Mr.
18 Dolecki, and I never went back. I went
19 into all these medical leaves. A year
20 later, when I came back, they had
21 already hired Mrs. Barbara Kurtz, and
22 they gave her a classroom. Mr. Deslmer
23 said they gave her a classroom because
24 I left. And I said, but Mr. Deslmer,
25 she doesn't have seniority. I do. And

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<p>1 I left not because I wanted to. I</p> <p>2 said, I was on a medical leave, which I</p> <p>3 have the documentation.</p>	<p>1 the medical leave, it states that when</p> <p>2 you go on a medical leave and you come</p> <p>3 back, you are to come back to the same</p> <p>4 position, the same circumstances. What</p>
<p>4 Q On the collective bargaining</p> <p>5 agreement, was that a grievable issue?</p>	<p>5 did they do? I went to seven different</p> <p>6 classrooms. Did you know how much my</p>
<p>6 A Most of the time, it's seniority</p> <p>7 that they are the one to keep the</p> <p>8 classroom</p>	<p>7 chest hurt from pulling and pushing</p> <p>8 that cart?</p>
<p>9 Q Did you try to grieve that</p> <p>10 issue?</p>	<p>9 Q But you were not the only</p> <p>10 teacher that was traveling?</p>
<p>11 A I talked to everybody I could,</p> <p>12 including Mr. Deshner, and they said,</p> <p>13 because you left. And I said, is there</p>	<p>11 A Of course not. No one pushed a</p> <p>12 cart because they were not being</p>
<p>14 anything I can do? Nonetheless, they</p> <p>15 didn't want to do anything. Actually,</p> <p>16 they encouraged me to look for another</p>	<p>13 scolded consistently because the kids</p> <p>14 did not have enough books or because</p>
<p>17 job because they said, we cannot</p> <p>18 continue defending you all the time.</p>	<p>15 they did not have enough workbooks. I</p> <p>16 had to make sure I had everything in my</p>
<p>19 Unfortunately, that's what Mr. John</p> <p>20 said, to look for another job in</p> <p>21 another place.</p>	<p>17 cart. Darned if I did, darned if I</p> <p>18 didn't.</p>
<p>22 Q And is it your understanding</p> <p>23 that under the contract, the</p>	<p>19 Q You were not the only teacher</p> <p>20 that was traveling; correct?</p>
<p>24 administration can schedule teachers</p> <p>25 wherever is necessary?</p>	<p>21 A Do you remember that we were</p> <p>22 dealing with departments? I'm talking</p>
<p>1 A Okay. I was teaching Spanish 5</p> <p>2 and Spanish 4 and Spanish 3.</p>	<p>23 about the foreign language department.</p> <p>24 My classroom was given to the American</p>
<p>3 Therefore, I'm supposed to be the</p> <p>4 teacher with more experience, and I</p> <p>5 never had problems with my Spanish 5</p>	<p>25 white teacher. And even the students</p>
<p>6 until there was an incident. I don't</p> <p>7 want to deviate again. I was</p> <p>8 consistently teaching these hard</p>	<p>1 I would question, why does she have a</p> <p>2 classroom and you don't? Haven't you</p>
<p>9 courses because I spoke Spanish better</p> <p>10 and I was a native from the country.</p> <p>11 When I came back, they gave it to the</p>	<p>3 been here longer? And I said, well,</p> <p>4 that's not my decision.</p>
<p>12 white teacher that was not as fluent as</p> <p>13 I was. They gave her my hard levels of</p> <p>14 Spanish. I witnessed some of the</p>	<p>5 Q Okay. I heard you, but I'm</p> <p>6 asking you, were other teachers</p>
<p>15 classes. I witnessed some of the</p> <p>16 classes.</p> <p>17 Q Your certification is just to</p>	<p>7 traveling as well at that time?</p> <p>8 A I already answered.</p>
<p>18 teach Spanish, ---</p> <p>19 A One through 12.</p> <p>20 Q --- not particularly any type of</p>	<p>9 Q I don't know what you said.</p> <p>10 A Just the foreign language</p>
<p>21 Spanish?</p> <p>22 A One through 12. And then,</p> <p>23 instead of giving me my classes back</p>	<p>11 department.</p> <p>12 Q I'm asking in general.</p>
<p>24 and my classroom, what did they do?</p> <p>25 And I told Mr. Deshner, according to</p>	<p>13 A With the other teachers? I know</p> <p>14 Mr. Mehok, because they were waiting</p>
	<p>15 for a math classroom. And I don't know</p> <p>16 how much seniority he had or not. To</p>
	<p>17 tell you the truth, I don't know. I</p> <p>18 just remember Mr. Mehok. I don't know</p>
	<p>19 any other teachers. Because ever Mr.</p> <p>20 Kurtz, I know that when somebody moved,</p>
	<p>21 they'd give her a classroom.</p> <p>22 Actually, I thought I was going</p>
	<p>23 to get it, and they said, no, because</p> <p>24 Mrs. Kurtz has seniority over you.</p>
	<p>25 That's what Mr. Deshner told me. There</p>

1 became a classroom available and I
 2 thought I was going to get it, and they
 3 gave it to Mrs. Kurtz.
 4 Q And did she have seniority over
 5 you?
 6 A That's what Mr. Deshner said,
 7 because she had been there longer than
 8 I had been. And they'd give her a
 9 classroom when I thought I was going to
 10 get it.
 11 Q So when you're talking about, in
 12 response to number eight, an inferior
 13 position, you're saying because you had
 14 to travel and because you were not
 15 teaching upper level Spanish? That's
 16 what you mean?
 17 A When I came back from my
 18 sabbatical.
 19 Q That's what you mean, then;
 20 correct? Yes?
 21 A Yes.
 22 Q Did anyone ever specifically say
 23 anything derogatory to you about being
 24 Hispanic?
 25 A Many times, many students.

1 that I can ask you additional questions
 2 during your deposition. And it says
 3 here, Plaintiff can elaborate on her
 4 medical condition and how the stress
 5 and tension of the workplace
 6 exacerbated her condition. And I'm
 7 asking you then to elaborate how you
 8 believe that the stress in the
 9 workplace either caused your condition
 10 or exacerbated your condition.
 11 A Exacerbated my condition to the
 12 point that I had a nervous breakdown.
 13 That's when I had to take off the
 14 school. And I began to suffer these
 15 horrible psychotic nightmares, always
 16 dreaming with these horrible three
 17 people, which in my mind, they were
 18 Deshner, Templeton and Berkeley, and
 19 there were all these horrible monsters
 20 kind of like, when I had a nervous
 21 breakdown, because I couldn't think
 22 normally.
 23 And they were consistently
 24 hurting me. I don't want to be very
 25 specific on the kind of psychological

1 Q I mean administration.
 2 A Not in my face. I'm sure they
 3 did because some of the students, they
 4 came out --- and this is hearsay. I'm
 5 very sorry, but this is hearsay. But
 6 some of the students approached me that
 7 they heard Deshner saying some things.
 8 And I said, I cannot use it in court
 9 because it's hearsay, that he said, I'm
 10 going to get this little --- whatever.
 11 Q But you never heard that?
 12 A Not in my face.
 13 Q Now, looking at number ten in
 14 Exhibits Five and Six, again, I am not
 15 sure that I have all of your medical
 16 records, but since our last time that
 17 we met for your deposition, I did
 18 receive medical records from Dr.
 19 Mercatoris. And I provided them to Mr.
 20 Nichols.
 21 ATTORNEY NICHOLS:
 22 I got a couple.
 23 BY ATTORNEY HEATH:
 24 Q But in the supplemental response
 25 to Interrogatory ten, again, it says

1 abuse that I went through when I had
 2 all these horrible nightmares. And I
 3 just remember screaming and screaming,
 4 and I had to go to the hospital. And I
 5 told them, I cannot even close my eyes
 6 because these creatures, these three
 7 creatures, they're constantly hurting
 8 me, abusing me, ripping my skin off,
 9 raping me. It was so terrible.
 10 And then I was constantly
 11 looking for a place. I have to go to
 12 class, I have to go to class, I have to
 13 find my classroom. And I explained to
 14 them. They even thought, oh, well,
 15 maybe she's into drugs. But when they
 16 did a blood test, they realized that I
 17 wasn't into drugs. I was just --- and
 18 they gave me medication.
 19 Q These are things you were
 20 dreaming; correct?
 21 A I couldn't even close my eyes
 22 because the things were so real. And I
 23 don't take drugs, and I don't drink,
 24 although I have the reputation of being
 25 an alcoholic, but I don't. I have very

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<p>1 little tolerance for that. Needless, 2 to say, it was extremely horrible. And 3 it took me about six months, but to 4 live with the constant fear, the 5 constant dread of losing my job, losing 6 my career after I have worked extremely 7 hard, it was --- 8 When I came to this country, I 9 had to be born again. And I wanted to 10 do my best to be a productive citizen 11 of this country, because I love the 12 United States. Just as I have answered 13 evil, wicked people, that they have no 14 scruples and they are slanderous and 15 they hurt people and they want to tear 16 their lives apart, I find all these 17 loving, beautiful people, especially 18 beautiful people at my church. 19 And Uncle Sam has been so good 20 to me because he gave me the 21 opportunity to re-educate myself. I 22 wanted to be a productive citizen. And 23 then I struggled so hard to be a 24 teacher again, because I was a music 25 teacher. My parents were teachers. My</p>	<p>1 why. Because I left my country, right? 2 And I start all over again. I start 3 fresh. I came to this country. I was 4 married. It was everything new. I was 5 very excited about learning English, 6 going to school. It was everything. I 7 graduated. I found a job. I 8 substituted. I got ESL. And then 9 finally, I got a permanent job, and 10 everything was incredible. It was 11 fine. 12 Q But my question was, prior to 13 this job --- 14 A I have no problems until 1995. 15 Q Isn't it true that you were 16 molested as a child? 17 A That's what I'm telling you. 18 ATTORNEY NICHOLS: 19 Counsel, you're going 20 beyond --- 21 A Right. That's what I'm telling 22 you. 23 ATTORNEY NICHOLS: 24 First of all, let me 25 say ---</p>
Page 87	Page 89
<p>1 brother's an engineer. My sister is a 2 dentist. We come from a middle class 3 family, but educated, the culture. I 4 love music, I love Broadway. I grew up 5 with that kind of music. So I wanted 6 to do well in this country and be a 7 productive citizen, not be like some 8 other people, which is why I didn't 9 apply for a benefit, taking from the 10 government. I didn't want to do that. 11 I said, I'm going to get ahead. 12 And then, when I live with a 13 constant fear that they were going to 14 take my job away, constantly, three 15 arbitrations --- Did you have the 16 slightest idea each arbitration, how 17 mentally emotional, devastating, 18 psychological ---? 19 Q Would you agree with me that you 20 had prior problems? 21 A From the very first arbitration. 22 Q Prior psychological problems 23 prior to coming to this job? 24 A Well, not really, and I'm going 25 to tell you why. I'm going to tell you</p>	<p>1 ATTORNEY HEATH: 2 I'm asking about the 3 origin of her alleged mental 4 disability. 5 A And I'm going to tell you. 6 That's what I'm telling you. When I 7 came to this country --- you see how 8 far I am? 2,000 miles. I don't see my 9 family. I'm here. I started a new 10 life. And also, remember I'm a 11 Christian person. And knowing that you 12 have to deal with these wicked, evil 13 people, you still have to forgive them. 14 BY ATTORNEY HEATH: 15 Q And throughout this time frame 16 though, --- 17 A And that helped --- 18 Q --- isn't it fair to say that 19 your relationships at home were less 20 than stable? 21 A But I'm not going to say because 22 of that. I have to say that the second 23 time I got married, I have to say that 24 a great deal of problems I had with my 25 husband, it was because of my first</p>

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<p>1 grievance. I explained that to you 2 last time. The third one, I'm not 3 going to blame it on anybody because it 4 was a psychotic pedophile, American man 5 that I met, so I cannot categorize and 6 say that they are all the same. That's 7 entirely not relevant. So I cannot 8 blame for the other ones. I gave 9 responsibility because I felt lonely. 10 I needed support. Since I don't have 11 my family here, then --- when you are 12 lonely ---.</p> <p>13 ATTORNEY NICHOLS: 14 That's not relevant. You 15 don't have to answer that. 16 ATTORNEY HEATH: 17 It is relevant in the 18 sense that if she's indicating 19 that her mental problems were 20 caused by the job ---. 21 A But remember we said. 22 exacerbated. We used the word 23 exacerbated. That's what we used. In 24 1995, after I went to my first 25 grievance, that's when my whole entire</p>	<p>1 did it correctly. Oh, just one P. So 2 I shouldn't say yes, I do. 3 Q Looking at answer 12, again, I'm 4 confused as to what you're trying to 5 allege here. I'm asking for factors 6 that you believe support your 7 contention that Defendant either 8 regarded you as being legally disabled 9 or that you had a record of impairment. 10 And then you were talking about the 11 arbitration award again. And I'm not 12 understanding why that relates to how 13 the administration viewed you relative 14 to your mental position. 15 A I'm disabled. They asked me to 16 resign. 17 Q So what are you talking about 18 here? You're talking about what, the 19 issue that came up concerning the 20 suggestion that you could resign? 21 A It was not a suggestion. 22 Q Okay. I know we talked a little 23 bit about this before. 24 A And there is a memo that 25 says ---.</p>
Page 91	Page 93
<p>1 ordeal began. Prior to that, I never 2 had to see a psychologist, even with my 3 molestation I didn't. I didn't because 4 I learned to forgive, and also, I was 5 2,000 miles away. And I started a new 6 life. And you know, when you 7 mature, --- 8 ATTORNEY NICHOLS: 9 Just answer the question 10 you had. That's all. 11 A --- you don't blame others. But 12 in this particular case, I blame others 13 because they robbed me of my career, of 14 my life. 15 ATTORNEY NICHOLS: 16 You have to answer the 17 question that you were asked. 18 Just answer the question, 19 please. 20 BY ATTORNEY HEATH: 21 Q Do you know how to spell 22 depression? 23 A Of course. 24 Q Would you spell it for me? 25 A D-E-P-P-R-E-S-S-I-O-N. I hope I</p>	<p>1 Q And I understand that. But 2 that's what you're referring to here? 3 Is that what you mean? 4 A They asked me to resign. It was 5 not a suggestion. 6 Q Okay. But that's what I'm 7 asking. When you're talking about this 8 arbitration award, I'm not sure. 9 You're just saying that the --- again, 10 you're referring to the arbitration 11 award, that you did not --- that the 12 emotional distress you exhibited on 13 March 12th, 2002 did not warrant a 14 premature unsatisfactory rating for the 15 entire year. But that's what you're 16 basing your claim that you were being 17 regarded as disabled as to what, your 18 behavior in March of 2002? 19 A My mental condition. I only 20 asked for three days to cool off 21 because I realized at that moment --- 22 you see my evaluations. You see all 23 satisfactory. 24 Q I'm just trying to narrow down 25 what it is you're claiming.</p>

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<p>1 A Well, I'm going to try to</p> <p>2 explain to you if you allow me to do</p> <p>3 so.</p> <p>4 Q But let me stop you, because</p> <p>5 what I'm asking you --- to be clear on</p> <p>6 what I'm asking you. I'm asking you</p> <p>7 what you claims are that you were</p> <p>8 regarded as being disabled. And you're</p> <p>9 focusing on what happened here in March</p> <p>10 of 2002. So I want to know if that</p> <p>11 incident is the basis of your claim</p> <p>12 that you were discriminated against and</p> <p>13 then later terminated because you were</p> <p>14 regarded as being disabled.</p> <p>15 A Correct.</p> <p>16 Q Is there anything else that</p> <p>17 you're basing that regarded as being</p> <p>18 disabled claim on?</p> <p>19 A From the very beginning that I</p> <p>20 took off in 1997, all my excuses, my</p> <p>21 medical leave, everything, the whole</p> <p>22 entire history of my medical and</p> <p>23 depression and stress. When I took</p> <p>24 three days, because they began to</p> <p>25 exacerbate that, ---</p>	<p>1 I didn't do anything. They never said</p> <p>2 anything. Anyway, I'm sorry.</p> <p>3 ATTORNEY NICHOLS:</p> <p>4 Counsel, I don't think</p> <p>5 she understood your question.</p> <p>6 You asked her question 12;</p> <p>7 right?</p> <p>8 ATTORNEY HEATH:</p> <p>9 Yes.</p> <p>10 ATTORNEY NICHOLS:</p> <p>11 And I don't think you</p> <p>12 understood the question. So</p> <p>13 take a moment.</p> <p>14 A They ---.</p> <p>15 ATTORNEY NICHOLS:</p> <p>16 Wait a minute. You have</p> <p>17 given her answers, and I think</p> <p>18 you should read that. Take a</p> <p>19 moment and read --- wait a</p> <p>20 minute. The supplement. Take a</p> <p>21 moment and look at the</p> <p>22 supplement.</p> <p>23 A That's what I thought that she</p> <p>24 just read. On March 12, it was not</p> <p>25 reason for them to give me an</p>
Page 95	Page 97
<p>1 Q In 2002?</p> <p>2 A In 2002. When Mr. Higgins had</p> <p>3 been totally honest, very truthful as</p> <p>4 supposed to be --- I'll ask. He saw me</p> <p>5 teaching. He saw how well I was</p> <p>6 performing. And then suddenly turned</p> <p>7 around because he was pressured, I'm</p> <p>8 sure they said, whether you help us to</p> <p>9 get rid of her and you go and find</p> <p>10 faults in her teaching, or his job</p> <p>11 might be at stake. All these men have</p> <p>12 no balls to be real truthful, and</p> <p>13 they're afraid of losing their job. So</p> <p>14 they take down a little Mexican. Who</p> <p>15 cares? Let's get rid of her. Take her</p> <p>16 back to Mexico.</p> <p>17 Q And this is your supposition?</p> <p>18 A Like so many students, they</p> <p>19 said, why don't you go back to Mexico?</p> <p>20 And Dr. Berkebile, their mothers will</p> <p>21 discipline them. Do you have a green</p> <p>22 card? Do you want to get a second job?</p> <p>23 The parents will discipline. But</p> <p>24 you're lying. You are not really</p> <p>25 disciplining them. They say that they</p>	<p>1 unsatisfactory.</p> <p>2 ATTORNEY NICHOLS:</p> <p>3 Well, that ---.</p> <p>4 A They regarded me as disabled.</p> <p>5 And I thought you already read the</p> <p>6 arbitration.</p> <p>7 ATTORNEY NICHOLS:</p> <p>8 I understand. You notice</p> <p>9 with respect to question 12, I</p> <p>10 answered, that is not her</p> <p>11 statement. That is drawn from</p> <p>12 the arbitration conclusion.</p> <p>13 ATTORNEY HEATH:</p> <p>14 Again, I don't care what</p> <p>15 the arbitrator said. I want to</p> <p>16 know what the basis of her claim</p> <p>17 in this particular action is.</p> <p>18 ATTORNEY NICHOLS:</p> <p>19 Asked and answered.</p> <p>20 A They asked me to resign because</p> <p>21 I submitted --- they saw me as</p> <p>22 disabled. Why did they send me for a</p> <p>23 psychological evaluation? Why? If</p> <p>24 they didn't see me as disabled, why did</p> <p>25 they ask me?</p>

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<p>1 BY ATTORNEY HEATH: 2 Q And that's what I'm asking you, 3 if that's what you're focusing on. 4 A And the suspension for two 5 months. 6 Q Now, when you're talking about 7 the suspension, you mean when? 8 A On that time. 9 Q In March of 2002? 10 A March 12th. As soon as I came 11 back from taking that medical leave, 12 they suspended me for two months and 13 they sent me for a psychological 14 evaluation. And their own psychologist 15 told them, she's just depressed. That 16 doesn't mean she's not fit to work. 17 And I complied with every single 18 request they did, every single thing, 19 even when my depression --- You know, 20 I stayed after school every day --- 21 ATTORNEY NICHOLS: 22 Did you even ask her a 23 question? 24 A --- to be able to do all the 25 work.</p>	<p>1 special education children? 2 A Not a problem, because I still 3 discipline them. What is the big 4 problem here? As soon as I discipline, 5 oh, you're lying. The students didn't 6 say it. They didn't do it. Lack of 7 support from administration. I 8 discipline. I wish you would come in 9 to see my classes, and all the 10 classroom expressions that they need. 11 Even the substitute teacher said she 12 was amazed at how much Spanish --- that 13 was my job. I speak Spanish. And I 14 discipline. 15 Q So the reason you're saying it 16 was a hostile --- you believed it was a 17 hostile and stressful work environment 18 was because you were given what you 19 believe was a disproportionate number 20 of special education and problem 21 students? 22 A That is not the reason. The 23 main reason is the lack of support from 24 administration. 25 Q I'm asking because of what you</p>
Page 99	Page 101
<p>1 BY ATTORNEY HEATH: 2 Q Okay. Looking at number 13 now, 3 and the answers that you put forward on 4 Exhibit Five and Six, you're 5 indicating here that you returned to a 6 hostile and stressful work environment 7 upon your return from medical leave. 8 And what are you talking about? Are 9 you talking about 1999? 10 A 1999, 2000. 11 Q Is that what you're talking 12 about? 13 A They gave me Spanish 1 with all 14 these special ed students that they 15 have problems as much with any other 16 teacher. The only problem with my 17 class, Spanish 1, is that special 18 education, you might have maybe a few, 19 seven of them. This other class might 20 have only two over here. I get them 21 all. All the special education kids. 22 Q So you're saying ---? 23 A If they have problems, another 24 teacher's with them. 25 Q You have a problem teaching</p>	<p>1 just said. 2 A They gave me all these special 3 education --- unruly, special 4 education. And also in my claim is the 5 lack of support from administration in 6 disciplining these unruly students. 7 Q Okay. Then if you look to, 8 again, 13, the supplemental answer that 9 you have on Exhibit Six, the last 10 sentence there is, the administration 11 showed no regard or accommodation for 12 her medical condition. What 13 accommodation did you ever request that 14 was denied to you? 15 A I told Mr. Deshner to please 16 give me back my higher classes. And if 17 Barbara was so great in disciplining, 18 why didn't he give all these special ed 19 kids to her? 20 Q So that was your request? 21 A I asked him to --- 22 Q And that was your request for 23 accommodation? 24 A I did. Just give me my higher 25 classes and my classroom.</p>

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<p>1 Q Because you felt what, you were 2 unable to teach special education or 3 problem students? 4 A It's not that I wasn't able. It 5 was more stressful. And the lack of 6 support from the administration made it 7 even harder. When the students come 8 and say, Mr. Higgins said that you're 9 going to get fired, Mr. Higgins said 10 that he's so sick and tired of you 11 sending kids to the office, that's what 12 he told me to do. They didn't want me 13 to put them outside the classroom. 14 Other teachers did. 15 And even the student that 16 attacked me and hit me and beat me up, 17 they put her back in my classroom. And 18 then he came and said, she wasn't 19 sleeping in your classroom. I woke her 20 up very tactfully. This girl is the 21 one that would say, you don't even know 22 how to speak English, and she would 23 call me all kinds of horrible names. 24 But I asked her to please sit up nice 25 and straight, Mr. Higgins is watching.</p>	<p>1 primarily contained in your chronology 2 of events. 3 A I'm sorry, but it's not what I 4 believe. It's what happened to the 5 point that I'm fired right now. I 6 don't have a job. And I'm --- 7 Q I'm just saying that I think the 8 answer to this question, if I'm 9 correct, is primarily contained in your 10 chronology of events; is that correct? 11 A And my grievances. 12 Q Okay. I'm not going to, you 13 know, make you rehash all of that 14 again. I'm just trying to be clear. 15 But you do say here that some of the 16 witnesses to the incidents would be 17 John Stanford, Marlene Gourly, Joanne 18 Williston and Janine --- how do you say 19 her last name? 20 A Maziarz. 21 Q Maziarz. Now, John Stanford, 22 you already deposed him; correct? 23 A We already did. 24 Q And Marlene --- it actually says 25 Gourly, but I believe it's Gourly.</p>
Page 103	Page 105
<p>1 And he saw everybody was behaving 2 because I discipline. But when the 3 students know that the administration 4 doesn't back you up, it makes it 5 harder, more stressful. 6 Q And looking at 18, and look at 7 Exhibit Six, which is your supplemental 8 response. 9 A Eighteen (18). Okay. 10 Q The question was, identify each 11 and every alleged incident of 12 discrimination referring or relating to 13 your alleged complaint. Include the 14 following information for each 15 incident. Then I asked for the date, 16 time and place of the incident, the 17 person engaging in the conduct, the 18 nature of the conduct and why you 19 believe it was based on your gender 20 and/or in retaliation for engaging in 21 protected activity, and all witnesses 22 to the incident. 23 And I understand that we've 24 already talked about what you believe 25 the basis for your complaint is, is</p>	<p>1 A It's Gourly with an L. 2 Q And Joanne Williston's already 3 been deposed; correct? 4 A Correct. 5 Q And then what do you believe 6 that Marlene Gourly is going to testify 7 about? 8 A Well, she was there when she 9 realized that Mrs. Templeton forbade me 10 to give detentions and sent me a letter 11 saying, oh, you're picking on the kids. 12 You sent all these kids and they said 13 that you're picking on them. And we 14 already called the parents. I forbid 15 you to give them detention. You have 16 the letter. 17 And also, she was yelling and 18 screaming. I told her, I said, well, 19 you want me to be consistent. I have 20 the classroom rules. And she said, I 21 don't care. And I said, Mr. Deslmer 22 signed them. I don't care. They're 23 not flexible. So I changed my 24 classroom rules so many times because 25 they were flexible, they were not</p>

1 flexible, they were too long, they were
2 too big, they were too little. I even
3 used Barbara Kurtz's classroom rules.
4 Q You indicated to me that ---

5 when you're talking about this Mrs.

6 Templeton issue, ---

7 A She was screaming and yelling.

8 Q --- that she gave you a memo;

9 correct?

10 A Yeah. We have it. Do you want

11 it?

12 Q I'm going to ask you to take a

13 look at it, and ask if this is the

14 memo. And it's dated October 3rd,

15 1997.

16 WITNESS REVIEWS DOCUMENT

17 A Yeah. They were being treated

18 unfairly. Yeah, that's the memo.

19 Yeah. They were singled out. Poor

20 things. They had no problems with

21 anybody but me.

22 BY ATTORNEY HEATH:

23 Q Okay. I'm just trying to ask

24 you if that's what you're referring to.

25 A Yes. Uh-huh (yes). And then we

1 had a meeting.

2 Q And Mrs. Gourly was at the

3 meeting? Is that what you're saying?

4 A Yes, she was at the meeting.

5 Yeah. We are going to try to depose

6 her and see if we can get the notes. I

7 don't know if she wants them, other

8 than why it took place, because she

9 even talked to Mr. Lescola (phonetic),

10 and she told Mr. Lescola that she had

11 never, never seen anybody being treated

12 so rude and so unprofessional like they

13 treated me.

14 Q And you're saying that you

15 believe Mrs. Gourly's going to testify

16 to that?

17 A I hope that she does.

18 Q Do you recall the meeting that

19 occurred and Mrs. Templeton indicating

20 to you that she was trying to explain

21 the situation and you were constantly

22 interrupting her? Do you recall that?

23 A I just remember ---

24 Q She was talking about the

25 student complaints and had asked you to

1 listen to what she was saying, and that

2 you continued to interrupt her, then

3 she asked you not to speak until she

4 finished? Do you recall that?

5 A I do have all the discipline

6 that she suggested, teacher detention,

7 teacher detention, teacher detention.

8 Q I'm just asking if you recall

9 that particular exchange.

10 A I do not recall that. No, of

11 course not.

12 Q Do you recall at the end of the

13 meeting that you pointed your finger at

14 Mrs. Templeton and made accusatory

15 statement such as, quote, you are

16 unprofessional, you are always siding

17 with students, end quote, and quote,

18 Mrs. Templeton, you know we have this

19 thing between us, end quote, and then

20 she asked you to explain and you said,

21 quote, because of what happened in the

22 past, I know you were trying to get rid

23 of me, and you were pointing your

24 finger and raising your voice? Do you

25 recall that?

1 A No. When people say I'm

2 pointing my finger, did you see how

3 sometimes I roll my hands? It's not

4 pointing fingers. Pointing fingers is

5 like this. I move my hands many times

6 when I talk. Now, I was telling her

7 the truth, that since I won that

8 arbitration, they were retaliating.

9 As soon as I filed my complaint

10 with PHRC, what did they do? Memo

11 after memo, memo after memo, memo after

12 memo. Darned if I disciplined, darned

13 if I didn't. And then they say, you

14 classes were chaotic. Well, she's

15 telling me not to give them detention.

16 The students that I sent, when I was

17 suspended, the other teacher sent them

18 to them. And they did nothing to her.

19 They did not tell her, you are picking

20 on the students.

21 But it was the same pattern,

22 consistently, never supported me. They

23 supported other teachers, no question.

24 With me, they even called them to

25 testify.

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<p>1 Q But my question was, do you 2 recall that particular exchange between 3 you and Mrs. Templeton? 4 A That's what Mrs. Gourly can 5 testify because she was there. 6 Q And so you're saying it didn't 7 happen? You didn't point your finger, 8 you didn't raise your voice? 9 A I don't point my finger. I did 10 not raise my voice. I told her that 11 she was being totally unprofessional 12 the way she was treating me and totally 13 rude, and that she was trying to get 14 rid of me. They were trying to get rid 15 of --- no, they weren't trying. They 16 did, by the book, like they told them 17 that they wanted to do it, to some of 18 the union reps. They wanted to fire me 19 by the book. 20 Why do you think they took my 21 students to have a test two months into 22 the school year? They were not even my 23 students, none of them but two. They 24 were Mrs. Maziarz's students, all of 25 them. And Mr. Deshner said, because I</p>	<p>1 have not yet been deposed are going to 2 testify to. Is there anything else 3 that you think Marlene Gourly could 4 testify to other than that meeting we 5 just discussed ---? 6 A You will have to ask her. 7 Q Just let me finish. Other than 8 the meeting we discussed with Mrs. 9 Templeton that you can think of as you 10 sit here today? 11 A I cannot think of anything. 12 Q Okay. Now, Janine --- 13 again ---? 14 A Maziarz. 15 Q Maziarz. What do you believe 16 she can testify to? 17 A Since she was my close friend, 18 probably the number of times that she 19 just saw me crying and crying, and she 20 doesn't understand how I can deal with 21 such harassment. And --- 22 Q Was she a teacher? 23 A She was my friend and we were 24 co-workers. We taught in the same 25 classroom for 15 years.</p>
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<p>1 I was not teaching. It was only October. 2 And two of them were only my students, 3 former students, only two. 4 Why did they take only my 5 students, nobody else's? Two months 6 into the year, we had just started. 7 Because I was not teaching, that's what 8 he said. And none of them were my 9 students. Because they were planning 10 this. It didn't matter if they were 11 going to get rid of me. It didn't 12 matter what. I already won three 13 grievances. I had already filed with 14 the HRC. It didn't matter. They were 15 going to ---. 16 Q Again, my question really was 17 just specifically related to that 18 particular meeting with Mrs. Templeton. 19 Because I'm asking you, again, I want 20 you to focus back on Exhibit Six and 21 these particular Interrogatory 22 questions and your answers. And you 23 were telling me who the witnesses were. 24 And I'm trying to determine what you 25 believe these particular people that</p>	<p>1 Q Is she retired from the 2 District? 3 A She's retired. But her husband 4 was in the School District for many, 5 many years. And although I'm sure --- 6 I love her dearly. I really, really 7 love her and I'm not going to talk 8 about her, but I know that she had a 9 great deal of problems with the 10 students. If I would have done what 11 she did with some of the students, my 12 class, I would have been fired on the 13 spot. 14 But remember, her husband was on 15 the school board. He was the 16 president. So they didn't put her in 17 an actual classroom until the very last 18 year prior to her retirement. 19 Q What is her national origin? 20 A She's Arab and --- 21 ATTORNEY NICHOLS: 22 Moroccan. 23 A --- Moroccan Arab. Yeah. I 24 don't know if she has some French. I 25 know she knows Spanish. But she was</p>

<p>1 born in Morocco. It's Arab. But she's 2 a wonderful person, though. I know she 3 had problems with the kids because she 4 was just extremely, extremely, I think, 5 very --- 6 ATTORNEY NICHOLS: 7 Counsel, --- 8 A--- loving to them. 9 ATTORNEY NICHOLS: 10 -- with respect to 11 question 18, the answers at 12 question 18, subpart E, we may 13 well alter that list of 14 individuals. 15 ATTORNEY HEATH: 16 Okay. 17 ATTORNEY NICHOLS: 18 Okay. 19 BY ATTORNEY HEATH: 20 QIs there anyone else as you sit 21 here today that you can think would 22 have information concerning the alleged 23 discrimination that occurred? 24 AJust the records, they speak for 25 themselves. And I'm out of a job. And</p>	<p>Page 114</p> <p>1 QBut she believed that she was 2 not treated well under Mr. Deshner, 3 also? 4 AShe refers to it as a living 5 hell under Deshner because he hates 6 women. Well, you know, he's gay, which 7 is detestable to Jehovah, really. To 8 God, it's unacceptable. But that's 9 immorality. That's immoral. They 10 accuse me of immorality because I gave 11 information to my lawyer. That's 12 immorality. 13 And you know what I heard the 14 kids saying? This is terrible. The 15 kids were saying, don't let yourself go 16 with the principal, because he's gay 17 and he may rape you. They were afraid 18 of him. And they had him as a 19 principal. That was immorality. 20 QAll right. But my point was, I 21 was just trying to determine if, in 22 fact, --- what's her name? Mrs. ---? 23 ATTORNEY NICHOLS: 24 Englebaugh. 25 BY ATTORNEY HEATH:</p>
<p>Page 115</p> <p>1 what did they do? They hired young, 2 white male --- 3 QI'm asking about people. 4 AJust documentation. We'll think 5 of more witnesses if we have to. 6 QAs you sit here today, can you 7 think of anybody else ---? 8 AYeah. We are going to call 9 Englebaugh. 10 ATTORNEY NICHOLS: 11 Yes. Ms. Englebaugh. 12 BY ATTORNEY HEATH: 13 QAnd who is she? 14 AShe was involuntarily 15 transferred to another school until 16 they made her resign because it was 17 living hell when she got here with 18 Deshner. It was a living hell. 19 QIs she Hispanic? 20 AShe looks like me, but she's 21 Italian. But she looks like me. 22 QAnd does she have any perceived 23 mental disabilities or ---? 24 AI don't know if she does or not. 25 You will have to ask her.</p>	<p>Page 117</p> <p>1 QEnglebaugh was in any type of 2 protected class such as being of a 3 different national origin or --- 4 AUnfortunately, she wasn't, no. 5 Q--- had any disability? 6 AShe didn't do anything. 7 QOkay. Let me show you what 8 we'll mark as Exhibit Nine. And it's a 9 job description. 10 (de Leon Exhibit Number 11 Nine marked for 12 identification.) 13 BY ATTORNEY HEATH: 14 QJust take a minute and look it 15 over, please. There's only three 16 pages. Look it all over. 17 ALh-huh (yes). 18 WITNESS REVIEWS DOCUMENT 19 AOkay. 20 BY ATTORNEY HEATH: 21 QAnd is that your signature? Or 22 I'm sorry. Is this something that you 23 received? Was that your name at the 24 time, McCracken? 25 AI'm sure that I did, yes.</p>

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<p>1 Q And was this something that you</p> <p>2 were aware of?</p> <p>3 A Of course I was. Uh-huh (yes).</p> <p>4 Q And you were aware of what your</p> <p>5 performance responsibilities were;</p> <p>6 correct?</p> <p>7 A Which I did. Look at my --- the</p> <p>8 records speak for themselves. Look at</p> <p>9 my evaluations.</p> <p>10 Q And this goes from one to 13.</p> <p>11 I'm just wanting to make sure that</p> <p>12 you're aware of all of these aspects of</p> <p>13 what was expected of you concerning</p> <p>14 your performance?</p> <p>15 A Yeah. And look at my</p> <p>16 evaluations, my observations.</p> <p>17 Q Well, I'm asking you. You were</p> <p>18 aware that these were the criteria upon</p> <p>19 which you were going to be ---</p> <p>20 A Correct.</p> <p>21 Q --- evaluated?</p> <p>22 A Right.</p> <p>23 Q And please wait until I finish</p> <p>24 asking before you answer, just so that</p> <p>25 she's not typing when two people are</p>	<p>1 (de Leon Exhibit Number</p> <p>2 Ten marked for</p> <p>3 identification.)</p> <p>4 BY ATTORNEY HEATH:</p> <p>5 Q This was something that you</p> <p>6 provided to me in response to when I</p> <p>7 requested HIPAA releases from you in</p> <p>8 this lawsuit. And would you agree with</p> <p>9 me that that's your handwriting on the</p> <p>10 front page?</p> <p>11 A Yes, it is.</p> <p>12 Q And you spelled depression with</p> <p>13 two P's?</p> <p>14 A I'm very sorry. It's just one</p> <p>15 P?</p> <p>16 Q And looking at the second page,</p> <p>17 you spelled it with two P's twice.</p> <p>18 A I'm sorry. And what does that</p> <p>19 have to do with my English? Does that</p> <p>20 mean that I'm unfit to teach Spanish?</p> <p>21 Q Well, I'm just asking. I'd like</p> <p>22 to mark this as Exhibit 11 and ask you</p> <p>23 to take a look at that.</p> <p>24 (de Leon Exhibit Number</p> <p>25 11 marked for</p>
Page 119	Page 121
<p>1 speaking; okay? Have you ever been</p> <p>2 spoken to by anyone in the</p> <p>3 administration concerning issues</p> <p>4 concerning your English spelling or</p> <p>5 grammar?</p> <p>6 A No, not really.</p> <p>7 Q When you say not really, what</p> <p>8 does that mean?</p> <p>9 A Nobody ever did. Because if</p> <p>10 they would have done that, they would</p> <p>11 have had to talk to all the other</p> <p>12 teachers as well. You should have</p> <p>13 heard Mr. Elmer's talking.</p> <p>14 Q When you were saying --- for</p> <p>15 example, I had asked you if you could</p> <p>16 spell depression, and you spelled it</p> <p>17 with two P's; correct?</p> <p>18 A Yeah. I think it's just one.</p> <p>19 Sorry. Do you know what I do most of</p> <p>20 the time? Whenever I want to write, I</p> <p>21 try to get my dictionary, but sometimes</p> <p>22 I just --- it depends what I write.</p> <p>23 Most of my schoolwork, I did.</p> <p>24 Q I'm going to show you what we'll</p> <p>25 mark as Exhibit Ten.</p>	<p>1 identification.)</p> <p>2 A They said I'm incompetent.</p> <p>3 BY ATTORNEY HEATH:</p> <p>4 Q Can you see any misspelled word</p> <p>5 there?</p> <p>6 A Okay. Receive, I-E. Placed,</p> <p>7 E-D. Under, she was never under.</p> <p>8 Q What about chaotic? Do you know</p> <p>9 how to spell chaotic?</p> <p>10 A Chaotic, I think it's</p> <p>11 C-H-A-O-T-I-C, chaotic. C-H-A-O-T-I-C.</p> <p>12 Q So there's at least two mistakes</p> <p>13 in here; correct?</p> <p>14 A Oh, I'm very sorry. However,</p> <p>15 remember, I'm a Spanish teacher. But</p> <p>16 when I do, I always check my</p> <p>17 dictionary. Everything is written with</p> <p>18 the textbooks.</p> <p>19 Q I want to show you what we'll</p> <p>20 mark as Exhibit 12, which is five</p> <p>21 pages.</p> <p>22 (de Leon Exhibit Number</p> <p>23 12 marked for</p> <p>24 identification.)</p> <p>25 BY ATTORNEY HEATH:</p>

1 Q I'm just going to ask you first
2 to look at page two. And this page two
3 is something that you prepared, is that
4 correct?

5 A No, it was Mrs. Barbara Kurtz.
6 I copied from her. I just wrote Mrs.
7 de Leon on top. But it's Mrs. Kurtz's.

8 She uses ---.
9 Q No, page two.

10 A Oh, page two.

11 Q It says parent conferences,
12 school year '01, '02.

13 A Okay.

14 Q For example, it says under the
15 first subpart there, K.B., special ed
16 conference held with mother and I.
17 Then again it continues saying mother
18 and I, with mother and I. Did anyone
19 ever bring to your attention that's
20 incorrect?

21 A No. What should I write?

22 Q Well, I'm just asking if you

23 know whether or not that's correct.

24 A I assume that it was correct,

25 mother and I, but if you say it's not,

1 I would like to know what is wrong with
2 it.

3 Q Well, you have to teach Spanish
4 grammar, correct?

5 A Yes. And we say yo, su madre y
6 yo.

7 Q What if you have something with
8 with?

9 A Con. Con su mama y conmigo and
10 with me. Con su mama y conmigo. With
11 me.

12 Q Correct.

13 A Mother and ---.

14 Q Me.

15 A And me? Is that right?

16 Q Right.

17 A Me is wrong.

18 Q With me. It's the same
19 grammatical concept.

20 A With me and the mother.

21 Q Con su madre y nigo?

22 A Right. But in this particular
23 case --- when I was learning English,
24 you would say, and I.

25 Q Not when there's a with there.

1 dated 3/13/02. Do you see anything
2 wrong with the first sentence there?

3 A Okay. Are you talking about
4 number 17?

5 Q Yes. It says D-17. It's the
6 last page of this exhibit.

7 A Okay. And what's wrong?

8 Advised?

9 Q It says advised.

10 A Should it be advice without
11 the ---?

12 Q A-D-V-I-S-E-D. Advised. Advice
13 is a noun. Advise is a verb

14 --- now I'm getting myself confused.

15 Advice is a noun. Advised is a verb.

16 A Okay. Please be advise ---

17 Q Okay.

18 A --- without the D.

19 Q Without the C. It would be an
20 S.

21 A Oh, with an S? But it's correct

22 with the E-D?

23 Q Correct.

24 A Okay.

25 Q Let me show you two exhibits

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<p>1 that we'll mark --- what are we up to 2 now? 3 COURT REPORTER: 4 Thirteen (13). 5 ATTORNEY HEATH: 6 Thirteen (13) and 14. 7 (de Leon Exhibits 13 and 8 14 marked for 9 identification.) 10 A Let me ask you something. I 11 hope that --- because of those little 12 tiny grammar mistakes, do you think 13 maybe that's why I lost my job? Does 14 that make me incompetent? 15 BY ATTORNEY HEATH: 16 Q I was just asking if you were 17 aware that there were grammatical 18 errors there, or spelling errors. 19 A Most of the time I would use the 20 dictionary. 21 Q I'm asking you now to take a 22 look at what's been marked as 13 and 23 14. And these are two complaints that 24 were filed with the PHRC. And I won't 25 get into what we discussed at the last</p>	<p>1 statement of charges letter, that was 2 your termination letter in there, --- 3 A It is. 4 Q --- was that in there? 5 A It is in there. It is in there. 6 Q Is it correct that these two 7 complaints were the only complaints 8 that you filed? 9 A I also filed my firing. 10 Q I mean, I know you're saying you 11 gave them documents and they were to 12 amend it. 13 A Right. 14 Q But you never signed any 15 amendment, did you? 16 A I signed everything that he sent 17 me, Mr. Flipping. That's his job. 18 He's the one responsible for that. 19 Q I understand that your position 20 is that you provided the PHRC with the 21 information and they may have failed to 22 follow up. 23 A I know Mr. Flipping did. Did 24 you ask him? 25 Q But you didn't sign any ---</p>
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<p>1 deposition. And I know there is an 2 issue as to whether or not your PHRC 3 complaint was ever formally amended to 4 incorporate your termination. 5 A I did ---. 6 Q And I know you indicated to me 7 --- you gave me the packet of what you 8 sent. But in that packet of what you 9 sent, you didn't send your statement of 10 charges letter. 11 A It is. 12 Q You believe that it's in that 13 packet? 14 A I do have it. 15 Q I mean, did you send that to the 16 PHRC? 17 A I did. And they sent it back to 18 me. I do have the whole entire 19 portfolio. And I have a witness. One 20 of my girlfriends went with me, and I 21 handed it to him, and also, I sent it 22 by mail. As soon as they sent me a 23 copy ---. 24 Q I understand that. But what I'm 25 asking you, do you know if your</p>	<p>1 there's no other complaint that I don't 2 have; is that correct? You don't have 3 something else other than what I have 4 here? 5 ATTORNEY NICHOLS: 6 Counsel, I have to say, 7 first of all, this is all ---. 8 ATTORNEY HEATH: 9 I'm just ---. 10 ATTORNEY NICHOLS: 11 Let me just say 12 something. 13 ATTORNEY HEATH: 14 I know we went through 15 this last time. 16 ATTORNEY NICHOLS: 17 Yes. We went before 18 Judge McLaughlin. 19 ATTORNEY HEATH: 20 Well, we didn't --- we 21 didn't. 22 ATTORNEY NICHOLS: 23 Yes, we did. On the 24 question of amendment, the Judge 25 clearly said on the record ---</p>

<p>Page 130</p> <p>1 and again, I'm going to remind 2 you the Judge remembers. He 3 told you, Counsel, I'm not going 4 to till this ground again. And 5 the issue dealing with 6 exhaustion of remedies, that's 7 what you're asking. 8 ATTORNEY HEATH: 9 Please stop. Can we 10 stop? We did this last time? I 11 don't want to do this now. It's 12 wasting time. 13 ATTORNEY NICHOLS: 14 But you brought it up. 15 ATTORNEY HEATH: 16 We will be going before 17 him anyway. You can bring it up 18 before the Judge. You don't 19 have to argue your point here. 20 There is no one to say whether 21 you're right or wrong. You know 22 I disagree. 23 ATTORNEY NICHOLS: 24 He'll remember. 25 ATTORNEY HEATH:</p>	<p>Page 132</p> <p>1 judgment. That's what he told 2 me. 3 ATTORNEY NICHOLS: 4 He told you --- 5 BY ATTORNEY HEATH: 6 Q All I'm asking is, there isn't 7 anything else that I don't have; is 8 that right? 9 A I don't know because --- you 10 subpoenaed the file; right? 11 Q Right. 12 A And they should have that in 13 there because I sent it by mail twice, 14 and I look it in person the third time. 15 So they should have a copy. 16 Q But you never signed another 17 verification for an amended complaint; 18 right? 19 A I'm telling you, what I signed, 20 I sent it back to him. He should have 21 a copy of it. 22 Q So if it's not in the file, it 23 doesn't exist? 24 A It has to exist. 25 Q If there's no amended complaint</p>
<p>Page 131</p> <p>1 Okay. Great. Then we'll 2 bring it up before Judge 3 McLaughlin. I just want to make 4 sure, as I'm sitting here, that 5 there's no other complaint 6 that's amended that suddenly is 7 going to appear at some later 8 date. 9 ATTORNEY NICHOLS: 10 I'm just saying, please 11 don't waste the Judge's time. 12 Because if you bring it up 13 again, you're wasting taxpayers' 14 money and you're really 15 insulting the Judge, continuing 16 to bring this up again. 17 ATTORNEY HEATH: 18 Well, that's your 19 opinion. 20 ATTORNEY NICHOLS: 21 He told you two or three 22 times. 23 ATTORNEY HEATH: 24 What he said was, I could 25 braze it again at summary</p>	<p>Page 133</p> <p>1 with a signed verification in that 2 file, you don't have anything else; 3 right? 4 ATTORNEY NICHOLS: 5 Well, wait a minute. She 6 can't speak to what happened and 7 what they did. 8 ATTORNEY HEATH: 9 I know that. 10 ATTORNEY NICHOLS: 11 She is not responsible. 12 ATTORNEY HEATH: 13 I understand that. I'm 14 asking her --- 15 ATTORNEY NICHOLS: 16 So don't ask her the kind 17 of question which imputes 18 responsibility on her --- 19 ATTORNEY HEATH: 20 I understand your 21 position. 22 ATTORNEY NICHOLS: 23 --- if they are 24 careless. 25 ATTORNEY HEATH:</p>

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<p>1 I'm asking her what she 2 signed, for God's sake. 3 ATTORNEY NICHOLS: 4 All right, I just wanted 5 to be clear. 6 A I signed whatever they sent me. 7 I do have the documentation. 8 BY ATTORNEY HEATH: 9 Q All right. 10 A Don't you think that it would 11 have been the most important thing? 12 The first person I called, it was Mr. 13 Flipping, when they fired me, the very 14 first person. And I cried and cried on 15 his shoulder, and I told him, they just 16 fired me. You knew they were going to 17 do it. That's what they were looking 18 for, not to help me to improve when 19 they knew I had a Master. 20 They even said in one of the --- 21 on the third evaluation that they gave 22 me unsatisfactory, she doesn't show 23 professional improvement. And I was 24 taking a Master's at Mercyhurst. They 25 didn't even ask ---</p>	<p>1 won your grievance, they didn't find 2 probable cause for you; --- 3 A They closed the case. 4 Q--- correct? They never found 5 probable cause ---? 6 A They closed the case. They 7 closed the case. 8 Q Did they ever find probable 9 cause? 10 A They never came to it because I 11 won the grievances. And I didn't win 12 the fourth one, and then I never heard 13 from them after three years. It will 14 be four. 15 Q I'm going to show you what we'll 16 mark as Exhibit 15. 17 (de Leon Exhibit Number 18 15 marked for 19 identification.) 20 SHORT BREAK TAKEN 21 BY ATTORNEY HEATH: 22 Q Actually, I'm sorry. Can we 23 just go back a second to the prior 24 complaint? I'm sorry. I apologize. 25 And I believe this was --- and I don't</p>
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<p>1 Q Now, you say you were crying and 2 crying on Mr. Flipping's shoulder, but 3 I believe, didn't you say in the last 4 deposition that you were dissatisfied 5 with the way that he handled your file? 6 A Not just him, all of them. 7 Q You were dissatisfied with --- 8 A All of them. 9 Q--- all of the what? 10 A I won the grievances. They 11 closed the case. Every time I won a 12 grievance, they closed the case. 13 Q Who's they? 14 A Human relations, the department. 15 Q And again, I think you're 16 confusing the basis of the grievance in 17 the law versus what Title VII or the 18 Pennsylvania Human Relations Act 19 specifies. 20 A That's what they said. You won 21 the grievance, we are going to close 22 your case. And they did. Every time I 23 won a grievance, they said, okay, we'll 24 close your case. That's it. 25 Q So in spite of the fact that you</p>	<p>1 really know which one was 13 and which 2 one was 14. Which one --- 3 A I have one 13. 4 Q--- had the notice to defend on 5 the front? 6 A Oh, this one, 14. 7 Q Okay. Going back to Exhibit 14. 8 A What page? 9 Q When you were talking --- in 10 response to one of the Interrogatory 11 questions, you referenced the complaint 12 that was filed with the PHRC that was 13 dated February 18th of 2003. And I'm 14 just making sure this is what you 15 meant. 16 A It was 2002. Or was that an 17 amended complaint? 18 Q Well, take a look at this 19 complaint --- 20 A The first one was in 2002. 21 Q--- that's an amended complaint. 22 It says amended complaint. Okay? And 23 if you look to the end, it says 2/18/03 24 on your verification. 25 A 2/18/03? Okay. Is that the</p>

1 last page?
 2 Q What I'm asking --- if you go
 3 back to the Interrogatory responses,
 4 and I know I put them back now, but if
 5 you look to Exhibit Six, ---
 6 ATTORNEY NICHOLS:
 7 Exhibit Six. Okay.
 8 Which number?
 9 ATTORNEY HEATH:
 10 Number five.
 11 BY ATTORNEY HEATH:
 12 Q This is when I was asking about
 13 the fact that you were claiming you
 14 were more stringently micromanaged and
 15 scrutinized in your complaint. And
 16 what you refer to is your supplemental
 17 answer in number one in Interrogatory
 18 one, and then your amended complaint
 19 filed with the PHRC on February 18th,
 20 2003. And at the time, I didn't have
 21 it handy. So I want to make sure this
 22 is what you were referring to in that
 23 answer.
 24 A Yes.
 25 Q Yes?

1 Is that attached to ---?
 2 We are looking at Exhibit 14;
 3 right?
 4 ATTORNEY HEATH:
 5 Right.
 6 ATTORNEY NICHOLS:
 7 You have marked it.
 8 A Where's page three?
 9 ATTORNEY NICHOLS:
 10 And the amended complaint
 11 is attached you're saying ---?
 12 Oh, I see. Okay.
 13 ATTORNEY HEATH:
 14 Fourteenth page in is the
 15 amended complaint.
 16 ATTORNEY NICHOLS:
 17 Oh, okay. All right.
 18 You're talking about what we
 19 filed with the PHRC, the
 20 administrative complaint?
 21 ATTORNEY HEATH:
 22 The amended complaint is
 23 page 14 of that exhibit, it
 24 starts. There's no page number,
 25 but it's the 14th page in.

1 A Uh-huh (yes). Yes.
 2 Q And I'm sorry. Looking at this
 3 complaint, this PHRC complaint ---.
 4 A What page?
 5 Q We've been talking about
 6 tardiness, as well. And on page three,
 7 most of the people I had already
 8 mentioned to you. But then there are a
 9 couple of ---.
 10 A Are we on Exhibit Six, page
 11 three?
 12 Q No. We're on Exhibit 14, page
 13 three, PHRC complaint.
 14 A Okay.
 15 Q And we already talked about some
 16 of these people.
 17 A Page three?
 18 Q Look at 14.
 19 A Page three?
 20 Q Of the complaint --- or amended
 21 complaint. I'm sorry.
 22 A But you're talking about page
 23 three?
 24 Q Of the amended complaint.
 25 ATTORNEY NICHOLS:

1 ATTORNEY NICHOLS:
 2 Okay.
 3 ATTORNEY HEATH:
 4 It says amended
 5 complaint.
 6 ATTORNEY NICHOLS:
 7 Yes, I see it. Okay.
 8 All right. What was filed with
 9 PHRC?
 10 ATTORNEY HEATH:
 11 Correct.
 12 ATTORNEY NICHOLS:
 13 Okay.
 14 ATTORNEY HEATH:
 15 Turn to page three of the
 16 amended complaint.
 17 ATTORNEY NICHOLS:
 18 All right.
 19 BY ATTORNEY HEATH:
 20 Q And if you look under count two,
 21 you are setting forth your allegations
 22 as to why you believe that you were
 23 treated differently based on your
 24 ancestry. Under count two. And then
 25 in paragraph 14, you were talking about

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<p>1 other teachers that were not treated in 2 a similar fashion, and for example, 3 were not disciplined, at least as far 4 as you know, concerning their being 5 tardy. You're talking also about 6 disciplining students, and you said 7 here --- I'm sorry. Relative to the 8 tardiness, we talked about Mr. Mehok 9 already. There's a --- Froelick? 10 ALH-huh (yes). 11 Q And what was the circumstance 12 there? 13 A That I probably was late. Mr. 14 Morfenski --- and there were several 15 others on the list in the chronology of 16 events. I was more detailed when I was 17 in the hallway looking at all these 18 different teachers. But there were a 19 lot more that were consistently late. 20 These are only a few. He mentioned 21 only a few. 22 Q But we already established that 23 you have no independent knowledge as to 24 whether or not they were disciplined; 25 correct?</p>	<p>1 A I'm sure that she called. 2 Because remember, all the white people, 3 they call. 4 Q What about Morfewski? 5 A Morfenski. 6 Q Okay. It says Morfewski, but 7 it's Morfenski? 8 A Morfenski. 9 Q With an N? 10 A Morfenski. There's an N here. 11 Remember, somebody else typed this. I 12 didn't. 13 Q Okay. And what was the story 14 there? 15 A I'm talking about teachers that 16 arrived late the same day I did. I saw 17 them personally. I saw them coming in 18 after I did. This particular instance, 19 in addition to all the other ones that 20 I recall before, but I'm sure that they 21 called because they were delayed. I'm 22 tardy. They were delayed. 23 Q Okay. Then you talk about --- 24 relative to disciplining students, you 25 reference a non-Hispanic substitute</p>
Page 143	Page 145
<p>1 A Of course they were going to say 2 they were, but we would like to see the 3 documentation. Can we subpoena --- 4 they are subpoenaing my taxes. Can we 5 subpoena their documents? 6 Q I'm just asking if you have any 7 knowledge, as you sit here today, as to 8 whether or not they were ever 9 reprimanded. 10 A I asked them and they said no. 11 Q And that includes --- is it Mr. 12 Froelick or ---? 13 A Mrs. Froelick. 14 Q Mrs. Froelick. Does that 15 include her? 16 A Yeah. She came late the very 17 last day. I saw her and she said, I 18 just got here. She said, I didn't 19 realize how late it was. It was 20 already after an hour that we'd been 21 there when she came in, and I happened 22 to be walking in the hallway when she 23 was coming in. 24 Q And you don't know if she had 25 called ahead or if she was disciplined?</p>	<p>1 teacher, Ms. Lynn. 2 A Right. 3 Q And you say, the Respondent has 4 not criticized non-Hispanic teacher Ms. 5 Lynn for disciplining students while 6 she acted as my substitute. What is 7 the basis of that statement? 8 A Well, I have the discipline 9 slips, and she did it with the same 10 students that I did. And she was not 11 --- nobody wrote a letter saying that 12 she was picking on them and that she 13 was lying. They actually disciplined 14 the students. And they were the same 15 students. But Mr. Higgins told me, oh, 16 you're picking on them. You favor some 17 more than the others. You're lying. 18 No. They disciplined the students. 19 And also, her lesson plans, did 20 you see her lesson plans? And you see 21 mine? Mine are typed, very 22 professional, because I always wrote my 23 agenda, my objectives. I struggled to 24 do my best on my job because they were 25 paying me. But not just for that.</p>

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<p>1 Because that's my nature. I do things 2 the best way I can. But hers, you 3 should see her lesson plans. Two 4 sentences about what she was going to 5 do.</p> <p>6 Q When was she your substitute 7 teacher?</p> <p>8 A When I was suspended because I 9 took my medical leave. They suspended 10 me for two months.</p> <p>11 Q Are you talking about 2002?</p> <p>12 A When they sent me for a 13 psychological evaluation to see if I 14 was fit to teach. She was. I wasn't. 15 But she was. All of her classes were 16 horrible, but she was.</p> <p>17 Q That was in 2002?</p> <p>18 A In 2002. The same students she 19 had problems with, I did. But the 20 administration supported her, backed 21 her up. They said she was an excellent 22 teacher. She was a science teacher.</p> <p>23 She didn't even speak Spanish, but she 24 was better than I was.</p> <p>25 Q Did you ever observe her</p>	<p>1 with Ms. Lynn when you came back ---?</p> <p>2 All was the very first day for 3 --- I didn't teach at all. The very 4 first period, she taught. I didn't 5 teach until fifth period.</p> <p>6 Q We're talking one day?</p> <p>7 A Just the very first day. And 8 the fifth period, I taught, and she was 9 sitting in the back. And as soon as we 10 walked in, that's when Mr. Deshner said 11 that he wanted to talk to her. And I 12 told her, Mrs. Lynn, Mr. Deshner wants 13 to see you in the office. He wants to 14 talk to you. From that moment on, she 15 never walked away. But in the letter, 16 she says that she left because she 17 couldn't stand what I was talking 18 about. I said, what is she talking 19 about? I never taught at all until 20 that moment that she walked away, and 21 then I took over.</p> <p>22 Q It wasn't a matter of teaching.</p> <p>23 Wasn't she talking about what you were 24 saying to the students in the class?</p> <p>25 A Oh, no, no. But she was</p>
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<p>1 teaching her class?</p> <p>2 A Of course.</p> <p>3 Q When was that?</p> <p>4 A When I came back, I actually had 5 to walk with her. It was the very 6 first instance, so I just sat there.</p> <p>7 Even Mr. Deshner said I was talking 8 about my husband and I was talking 9 about farting, and I was talking --- 10 and I said, I was not teaching at all. 11 I was just sitting there working on my 12 lesson plans.</p> <p>13 And there was a student that had 14 a farting machine, and I said, well, 15 that's a natural physiological need, so 16 just put it away. And actually, I took 17 it away from the student. I still have 18 it. But Mrs. Lynn was reviewing a 19 worksheet. The students, they were all 20 talking. I was just working on my 21 lesson plan. But then things changed. 22 I was teaching. And I said, no, I 23 wasn't. I didn't teach until fifth 24 period, and she just sat in the back.</p> <p>25 Q So how many days did you teach</p>	<p>1 teaching. I wasn't. I was working on 2 my lesson plans. I just told the girl 3 to put that thing away or I was going 4 to take it away. I said, why are you 5 making such a big thing about somebody 6 farting? It's a natural physiological 7 need. And then I realized that she had 8 that machine, and I said, just put it 9 away. She was just fooling around, 10 this girl, with that farting machine.</p> <p>11 Q Okay. Back to my original 12 question, which was, did you ever 13 observe her teaching? That was the 14 only day, is that right?</p> <p>15 A Four classes, actually.</p> <p>16 Q Okay. And that was the only 17 time?</p> <p>18 A Uh-huh (yes).</p> <p>19 Q Okay. If you look to page five 20 of this PHRC amended complaint, 21 paragraph 24, ---</p> <p>22 A Okay.</p> <p>23 Q --- you indicate that the 24 administrators were harassing you and 25 that they did not discipline teachers</p>

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<p>1 Nina Garganelli --- 2 A Garganelli (corrects 3 pronunciation). I did not write this, 4 remember? 5 Q--- and Luanne --- and I don't 6 know what their names are, so I'm 7 asking you. Masychak ---. 8 A Masychak (corrects 9 pronunciation). 10 Q For calling homes of the 11 students. What are you talking about 12 there? 13 A Well, I was there when they had 14 said that they had called the students, 15 especially Luanne. But of course, she 16 denies it now. I was there. We were 17 eating lunch when she said, and when 18 she was talking to everybody, that she 19 had just told a student to settle down 20 or she was going to call the mother. 21 And she said, the student didn't 22 believe me. 23 And she said --- and actually, 24 when I grabbed the phone and I called 25 the mother, then she believed me that I</p>	<p>1 already nailed me because this other 2 girl was sleeping, Stephanie Morack, 3 the one that attacked me. So darned if 4 I did, darned if I didn't. 5 Q And what you're talking about 6 with the phone call is when you 7 called ---? 8 A Yeah. And I never gave anybody 9 their grades. Never. I said he did 10 not have a grade. 11 Q All right. We're going to get 12 to that. We're going to take a break 13 and we're going to get to that after 14 lunch because confidentiality is a 15 separate issue. 16 A I know. Yeah. It didn't 17 matter. Darned if I did, darned if I 18 didn't. They were going to nail me. 19 They were going to get rid of me. It 20 didn't matter what. 21 Q Okay. 22 A That was their only objective. 23 Not to help me to improve. 24 ATTORNEY NICHOLS: 25 We'll come back at 1:30.</p>
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<p>1 I was going to do it, because she did. 2 She said, I called the mother. She 3 said she did. I was there. She did 4 it. Nina Garganelli, she told me that 5 she always calls home in the class 6 because she deals with these suspicious 7 students. But she said, if you ask me, 8 I will deny it because of job security. 9 You have to understand. They're 10 not going to back me up. They're not 11 going to be truthful. It's their job 12 and they don't want to be reprimanded 13 and say you're not allowed to call 14 students. But with me, the mother 15 happened to be --- but they wanted me 16 to be consistent. I told the student, 17 if you continue --- I'd already given 18 detention. I said, if you continue, I 19 said, the condition, I'll let you just 20 sit there. Otherwise, I'm going to 21 have to call the mother. 22 It was just five minutes before 23 the end of the school --- the class 24 period and I called the mother. They 25 wanted me to be consistent. But they</p>	<p>1 ATTORNEY HEATH: 2 Right. Okay. 3 LUNCH BREAK TAKEN 4 BY ATTORNEY HEATH: 5 Q Okay. Where we had left off, we 6 were talking about your amended 7 complaint dated February 18th, 2003 8 that was submitted to the PHRC. And we 9 had stopped with talking a little bit 10 about confidentiality, student 11 confidentiality. What is your 12 understanding or was your understanding 13 of the School District's policy 14 concerning student confidentiality? 15 A You never give the students 16 grades in front of anybody. Nobody's 17 allowed to know other kids' grades. 18 Q What about discipline record? 19 A Discipline record, I would 20 imagine it's the same, but I --- 21 Q But you wouldn't be discussing 22 that in front of other students? 23 A In front of other students. 24 Q And with regard to the 25 particular classroom situation that we</p>

<p>Page 154</p> <p>1 I were talking a little bit about before 2 lunch, you said that it was about five 3 minutes before the end of class you 4 called Robin Stockton concerning her 5 son who was sleeping in the class; is 6 that right? 7 A And everybody could see him 8 sleeping. 9 Q And was it something that you 10 discussed in front of the classroom? 11 A I didn't have to discuss. They 12 saw him. I woke him up several times, 13 and I had already told him, I'm going 14 to let you go back and sit down. If I 15 catch you sleeping, I'll call your 16 mother. 17 Q And where were you sitting at 18 the time, or where were you? 19 A I was usually standing, waking 20 around. 21 Q At the time you called Robin 22 Stockton, where were you in the 23 classroom? 24 A Probably up by the phone when I 25 decided to go ahead and call her.</p>	<p>Page 156</p> <p>1 now, we are reviewing for a test for 2 tomorrow and he's refusing to wake up 3 and follow along. That's when he 4 pulled out his sheet, his worksheet, 5 claiming that it was completed. 6 And I said, I'm not questioning 7 whether he completed it or not. What 8 I'm questioning, I said, he's not 9 reviewing and correcting the mistakes 10 so he can be prepared and go over his 11 mistakes, grammatical mistakes, 12 grammatical spelling errors, so he 13 could be prepared, and the 14 conjugations, and be ready for the 15 quiz. That's what I was questioning, 16 not whether he did it or not. 17 When he pulled out his sheet, 18 that's when everybody said, oh, but he 19 had already done it, and the whole 20 entire class screamed. And what the 21 mother said, are you calling me in 22 front of the kids. And I said, he's 23 been sleeping in front of the kids and 24 I've been waking him up for the whole 25 entire period. He woke up, I turn</p>
<p>Page 155</p> <p>1 Q Is there a phone mounted on the 2 wall or your desk or ---? 3 A Uh-huh (yes). It is just right 4 on the wall by the door. 5 Q And at that time, did you talk 6 about this particular student's grades 7 with the mother? 8 A No. I just told him --- this is 9 what I said. And there is a memo that 10 I sent to Mr. Higgins telling him what 11 had happened. And I told him I wanted 12 to schedule an appointment with her, a 13 conference, because I had already 14 warned her son to wake up several 15 times. And I had warned him that I was 16 going to go ahead and call his mother. 17 That's why I was calling her, because I 18 was supposed to be consistent. 19 And I said, last grading period, 20 he didn't have a grade. This is what I 21 said. Nonetheless, I would like to go 22 over all this information with you. 23 And it is in my memo. And therefore, 24 when the student said --- when I was 25 telling her that --- and I said, right</p>	<p>Page 157</p> <p>1 around, he fell asleep. He woke up, 2 turn around, he went back to sleep. 3 Until I told him, I'm going to have to 4 call your mother. And I said, 5 everybody can see that he's sleeping. 6 So that is when she said, I don't like 7 the way you handled this. I'm going to 8 contact the administrators. Fine. 9 Q Prior to this particular 10 instance, had you been talked to at all 11 about student confidentiality issues in 12 the past? 13 A The administrator did, which I 14 never did provide any confidential 15 --- I think I was the only teacher that 16 --- one time, I was criticized by 17 Desher that I refused to give the 18 students their grade. No, I never did. 19 I did it on a confidential basis. Each 20 student, if they asked me, I'd walk 21 around, I wrote in a little piece of 22 paper, and I gave it to them, because 23 it was very important that I will keep 24 all this information on a confidential 25 basis.</p>

<p>Page 158</p> <p>1 Some other teachers say it out 2 loud. They say, you're failing. 3 Because I heard them, especially when I 4 was witnessing other teachers and I'd 5 have to go to several other classes. 6 They'd say, hey, you, you're failing. 7 They did. I never did because I know 8 it was confidential. So I wrote it in 9 a little piece of paper, and I'd give 10 it to them, and any other information, 11 of course. I never called any other 12 parent before, prior to that. 13 Q And you never opened any grade 14 books and showed the class other 15 students' grades? 16 A Of course not. My grade book 17 was my grade book. 18 Q Now, if you will recall from the 19 last arbitration, there was an issue 20 about your copying Mr. Flipping on 21 correspondence that related to 22 students' discipline and identified the 23 students by name; do you remember that 24 issue? 25 A Yes. Uh-huh (yes).</p> <p>Page 159</p> <p>1 Q And it is correct that Mr. 2 Flipping was copied on some of that 3 information; correct? 4 A It was only one page that I 5 recall that Mr. Desiner brought up. 6 And I was explaining to him --- I can't 7 recall if it was when I was talking to 8 Mrs. McDaniels about this particular 9 student. And I cannot recall the issue 10 that we were discussing, that he 11 happened to be --- that I told him the 12 kind of students --- 13 Oh, I know. If I recall very 14 well, these students were screaming, 15 yelling in front of my class, you're 16 going to be fired. Because of you, I 17 already went to the office because Mr. 18 Higgins is asking us, how'd you act, 19 what'd you say, what'd you do in class? 20 And because of you, I had to go to the 21 office. And you are going to get 22 fired. In front of the whole entire 23 class. 24 And I sent him a memo saying, 25 this is what the students are saying.</p>	<p>Page 160</p> <p>1 And this other student, Megan --- I 2 can't recall her name right now. One 3 is Thomas. The other one is Megan. I 4 have the memo, if you have a copy of 5 that. And I said, this particular 6 student, that I'm having a great deal 7 of difficulty with him academically. I 8 already called his mother, he was a D 9 student, that I was having difficulty 10 keeping him on task. The other girl, I 11 didn't have that much problem. But 12 still, at the beginning, she was a very 13 nice student. 14 And after Mr. Higgins told her 15 to ask them how I act --- because she 16 said the same thing. Yeah, we were 17 called to the office because of you. 18 If you keep sending students to the 19 office, you are not going to be 20 teaching here for too much longer. 21 That's what Mr. Higgins said in front 22 of the whole entire class. 23 So I copied Mr. Flipping with 24 all the comments and telling him, this 25 is the kind of student, and they're</p> <p>Page 161</p> <p>1 asking him about my professional 2 performance when this is a D student 3 that is not even paying attention, and 4 I have so much difficulty keeping him 5 on task and turning in his homework. 6 I explained to him the situation 7 and the type students, that they were 8 being questioned about me, how I acted, 9 what I said, what did I do. And there 10 were two incidents which also 11 aggravated my lawyer. Cassandra Prenak 12 (phonetic) was asking Higgins about me, 13 how I act, what did I say in class. 14 Well, he observed me. He gave me S. 15 Q And you didn't feel that that 16 type of exchange was a violation of the 17 student confidentiality policy? 18 A Do you think that it was a 19 violation of the teacher's 20 confidentiality? 21 Q I'm asking if you believe that 22 was in violation of the student's 23 records privacy. 24 A Telling the students that I was 25 going to be fired and telling the</p>
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1 parents ---?
 2 Q My question is, didn't you
 3 believe that that kind of exchange, in
 4 identifying a student by name ---?
 5 A Not to human relations, no.
 6 Q And who told you that, or is it
 7 just your own feeling?
 8 A It's not my own feeling. I did
 9 provide him with all the documentation
 10 that was necessary, and my lawyers,
 11 because I have filed a complaint. And
 12 legally, I was allowed --- if they
 13 weren't allowed, they did, too. They
 14 sent all the documentation, including
 15 all my documentation, my medical files.
 16 All this is confidential information.
 17 And they sent it to human relations, as
 18 well, even documentation that they were
 19 not allowed to submit. Remember when
 20 the arbitrator said what's good for the
 21 goose ---?
 22 Q Again, you're confusing the law
 23 that is the basis of this action for
 24 what the arbitrator said, which was to
 25 purge your file so it was not to be

1 professional service unless required to
 2 be disclosed by law or by clear and
 3 compelling professional necessity as
 4 determined by the professional
 5 educator. So my question to you is, do
 6 you believe that your copying Mr.
 7 Flipping on all of that student
 8 information falls within number nine?
 9 A Correct. Yes.
 10 ATTORNEY NICHOLS:
 11 Counsel, let me state for
 12 the record before you continue
 13 to put this question to my
 14 client like that, I have to
 15 remind you of the ruling by
 16 Arbitrator Annis on this
 17 particular issue dealing with
 18 the release of student
 19 information to Mr. Flipping and
 20 other members of the PHRC. That
 21 did come before Mr. Annis. Mr.
 22 Annis specifically ruled on ---
 23 ATTORNEY HEATH:
 24 Please do not lecture me
 25 about the arbitration.

1 used for further disciplinary action
 2 against you on that basis. That is a
 3 separate issue, completely separate.
 4 Let me show you what's already been
 5 marked as, I believe, Exhibit 15. Ms.
 6 de Leon, have you ever seen this
 7 document called the Pennsylvania Code
 8 of Professional Practice and Conduct
 9 for Educators?
 10 A No. I never seen it until just
 11 now. Have they seen it? Have they
 12 seen the Professional --- have you seen
 13 this document? Why don't you give him
 14 a copy?
 15 Q This is the law, and I'm going
 16 to direct your attention under
 17 practices, which is 22 Pa.C. 235.4,
 18 that's practices. And looking to page
 19 two, there are a variety of practices
 20 that are listed that are expected under
 21 the law of professional educators. And
 22 one of them, if you look to number (9),
 23 it states, professional educators shall
 24 keep in confidence information obtained
 25 in confidence in the course of their

1 ATTORNEY NICHOLS:
 2 No, I'm saying --- but
 3 you asked her ---
 4 ATTORNEY HEATH:
 5 I don't want to know
 6 about that. What I'm asking
 7 her ---
 8 ATTORNEY NICHOLS:
 9 But it's not fair for
 10 you ---
 11 ATTORNEY HEATH:
 12 Oh, dear God.
 13 ATTORNEY NICHOLS:
 14 It's not fair for
 15 you ---
 16 CERTIFIED SECTION
 17 ATTORNEY HEATH:
 18 Certify this on the
 19 record. I'm going to the Judge.
 20 I cannot put up with this. I
 21 will not put up with this.
 22 ATTORNEY NICHOLS:
 23 But I welcome my
 24 opportunity to go to the Judge
 25 and listen because this is not

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<p>1 fair. It's unfair for 2 you --- 3 ATTORNEY HEATH: 4 This is ridiculous. 5 ATTORNEY NICHOLS: 6 Let the record reflect 7 it's unfair for you to, one, 8 first of all, suggest that my 9 client violated the law in any 10 fashion --- 11 ATTORNEY HEATH: 12 Put your objection on the 13 record and move on. This is a 14 deposition under the Federal 15 Rules. 16 ATTORNEY NICHOLS: 17 No. Wait a minute. You 18 asked her a question and she has 19 a right to --- we have a right 20 to respond. 21 ATTORNEY HEATH: 22 You do not testify. She 23 can testify. 24 ATTORNEY NICHOLS: 25 No, no. I have a right</p>	<p>1 I'll call him. Call him. 2 Want to call him on the phone? 3 ATTORNEY NICHOLS: 4 Yes. Please, please. 5 ATTORNEY HEATH: 6 All right. 7 ATTORNEY NICHOLS: 8 Arbitrator Arnis --- 9 ATTORNEY HEATH: 10 I don't care about that. 11 ATTORNEY NICHOLS: 12 --- ruled, invalidating 13 the charge which Mr. Dolecki 14 charged her with immorality. He 15 expunged it. He said it's 16 invalidated because she was 17 authorized to do what she did. 18 I have the opinion here. Now, 19 this here is saying she is 20 violating a section of code in 21 light of that. Arbitrator Arnis 22 ruled what she did with this 23 information is authorized. 24 You are now saying --- 25 and you not only implied, you</p>
Page 167	Page 169
<p>1 to speak to this legal issue. 2 ATTORNEY HEATH: 3 Oh, dear God. 4 ATTORNEY NICHOLS: 5 And the legal issue is 6 this. Arbitrator Arnis 7 ruled --- 8 ATTORNEY HEATH: 9 Sir, as we're going to 10 the Judge --- 11 ATTORNEY NICHOLS: 12 The arbitrator --- yes, 13 we're going to the Judge. 14 ATTORNEY HEATH: 15 Certify this. I will 16 move on. I will move on. 17 ATTORNEY NICHOLS: 18 We're going to the Judge 19 on this. 20 ATTORNEY HEATH: 21 This is ridiculous. 22 ATTORNEY NICHOLS: 23 No, no, no. No, it 24 isn't. You raised it. 25 ATTORNEY HEATH:</p>	<p>1 insisted that she violated these 2 Professional --- and the law in 3 professional code is just plain 4 wrong. And he said that when 5 Mr. Dolecki charged her with 6 immorality. This is what he 7 said. I have the record. He 8 said one, there was no time that 9 she sought to deceive. 10 ATTORNEY HEATH: 11 Again, --- 12 ATTORNEY NICHOLS: 13 Obviously, that's in the 14 record. 15 ATTORNEY HEATH: 16 Okay. 17 ATTORNEY NICHOLS: 18 And I'm not going to have 19 you charge my client unfairly. 20 I welcome the opportunity. We 21 will talk to the Judge. 22 ATTORNEY HEATH: 23 I'm not talking to you 24 until you calm down. 25 ATTORNEY NICHOLS:</p>

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<p>1 I will not allow you to 2 impugn her motive. 3 ATTORNEY HEATH: 4 Please let the record 5 reflect --- 6 ATTORNEY NICHOLS: 7 I've got the record 8 saying otherwise. The 9 arbitrator said otherwise. 10 ATTORNEY HEATH: 11 --- Mr. Nichols is 12 pounding his fist on the table. 13 He has stood up and he is 14 screaming. 15 ATTORNEY NICHOLS: 16 That's right. 17 ATTORNEY HEATH: 18 Let the record reflect 19 that. And at this point, I 20 don't think it would be 21 professionally in your best 22 interest to speak to the Judge 23 unless you calm down. 24 ATTORNEY NICHOLS: 25 Well, I'll tell you, I'm</p>	<p>1 confidentiality issue. I have a 2 right to. 3 ATTORNEY NICHOLS: 4 He ruled on that very 5 issue you couldn't before. 6 ATTORNEY HEATH: 7 What? 8 ATTORNEY NICHOLS: 9 He has ruled. He has 10 ruled. 11 ATTORNEY HEATH: 12 Ruled what? So what? 13 ATTORNEY NICHOLS: 14 And now you are saying 15 --- you asked her to ---. 16 ATTORNEY HEATH: 17 It's not res judicata. 18 ATTORNEY NICHOLS: 19 You were just saying 20 --- you impugned her character. 21 ATTORNEY HEATH: 22 Oh, yes, because she's 23 put her character at issue. 24 ATTORNEY NICHOLS: 25 No, she hasn't.</p>
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<p>1 not going to allow you to say 2 that. 3 ATTORNEY HEATH: 4 This is absolutely 5 absurd. If you want to take a 6 deposition --- 7 ATTORNEY NICHOLS: 8 I'm not going to allow 9 you to impugn her character that 10 way. You impugned her 11 character. 12 ATTORNEY HEATH: 13 If you want to end this 14 deposition, then withdraw your 15 complaint and let the 16 termination stand. If you want 17 to talk about arbitrations, the 18 award was that she was fairly 19 terminated for just cause. Let 20 it stand. 21 ATTORNEY NICHOLS: 22 No, I'm talking about 23 Arbitrator Arnis. 24 ATTORNEY HEATH: 25 I can ask about the</p>	<p>1 ATTORNEY HEATH: 2 Well, her credibility is 3 at issue. 4 ATTORNEY NICHOLS: 5 I'm not going to sit here 6 and allow you --- 7 ATTORNEY HEATH: 8 I can't believe this. 9 ATTORNEY NICHOLS: 10 --- to impugn her 11 character away when I know what 12 the arbitrator said. He said 13 that those charges of immorality 14 that were brought against 15 her --- 16 ATTORNEY HEATH: 17 I'm asking about 18 confidentiality. 19 ATTORNEY NICHOLS: 20 --- by the 21 administrator --- 22 ATTORNEY HEATH: 23 How is confidentiality 24 and immorality --- 25 ATTORNEY NICHOLS:</p>

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<p>1 --- were wrong.</p> <p>2 ATTORNEY HEATH:</p> <p>3 --- the same thing? How</p> <p>4 on God's oath is that true?</p> <p>5 He's not even listening to my</p> <p>6 question at this point. He's</p> <p>7 throwing a fit and a tantrum.</p> <p>8 ATTORNEY NICHOLS:</p> <p>9 Please ask Mr. Dolecki.</p> <p>10 He brought the charges.</p> <p>11 ATTORNEY HEATH:</p> <p>12 This is the most</p> <p>13 unprofessional, ridiculous</p> <p>14 action that I have heard ---</p> <p>15 ATTORNEY NICHOLS:</p> <p>16 The question, is it true?</p> <p>17 ATTORNEY HEATH:</p> <p>18 --- in 18 years of</p> <p>19 practice.</p> <p>20 ATTORNEY NICHOLS:</p> <p>21 The question, is it true,</p> <p>22 though? Is it true? Counsel,</p> <p>23 is it true?</p> <p>24 ATTORNEY HEATH:</p> <p>25 I'm asking if she</p>	<p>1 ATTORNEY HEATH:</p> <p>2 Have you read it?</p> <p>3 ATTORNEY NICHOLS:</p> <p>4 What are you talking</p> <p>5 about?</p> <p>6 ATTORNEY HEATH:</p> <p>7 Have you even read it?</p> <p>8 ATTORNEY NICHOLS:</p> <p>9 I read it.</p> <p>10 ATTORNEY HEATH:</p> <p>11 It's the law.</p> <p>12 ATTORNEY NICHOLS:</p> <p>13 I've seen it before.</p> <p>14 A. They should read it.</p> <p>15 ATTORNEY HEATH:</p> <p>16 It has nothing to do with</p> <p>17 immorality except for one part.</p> <p>18 It talks about professional</p> <p>19 educators shall exhibit ---</p> <p>20 ATTORNEY NICHOLS:</p> <p>21 Precisely.</p> <p>22 ATTORNEY HEATH:</p> <p>23 --- consistent and</p> <p>24 equitable treatment of</p> <p>25 students, ---</p>
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<p>1 believes that her copying Mr.</p> <p>2 Flipping was ---.</p> <p>3 ATTORNEY NICHOLS:</p> <p>4 And the arbitrator</p> <p>5 answered that. He answered</p> <p>6 that. You might not want to</p> <p>7 read it, but I'm not going to</p> <p>8 sit here and allow you to impugn</p> <p>9 her character. You ask your</p> <p>10 client, did he charge her with</p> <p>11 immorality? You ask him.</p> <p>12 ATTORNEY HEATH:</p> <p>13 I'm not talking about</p> <p>14 immorality.</p> <p>15 ATTORNEY NICHOLS:</p> <p>16 Well, what are you</p> <p>17 talking about here? You're</p> <p>18 waving the Professional Code at</p> <p>19 her.</p> <p>20 ATTORNEY HEATH:</p> <p>21 Yes.</p> <p>22 ATTORNEY NICHOLS:</p> <p>23 A code about immorality.</p> <p>24 Please don't be disingenuous</p> <p>25 with us.</p>	<p>1 ATTORNEY NICHOLS:</p> <p>2 Look, you're not ---.</p> <p>3 ATTORNEY HEATH:</p> <p>4 --- fellow educators and</p> <p>5 parents.</p> <p>6 ATTORNEY NICHOLS:</p> <p>7 Counsel, Counsel ---.</p> <p>8 ATTORNEY HEATH:</p> <p>9 You haven't even read it.</p> <p>10 ATTORNEY NICHOLS:</p> <p>11 I have. You know why I</p> <p>12 read it?</p> <p>13 ATTORNEY HEATH:</p> <p>14 Oh, dear God.</p> <p>15 ATTORNEY NICHOLS:</p> <p>16 You know why I read it?</p> <p>17 Because the district has moved</p> <p>18 to decertify her. And they</p> <p>19 wrote me. She gave it to me,</p> <p>20 and I had to respond to it.</p> <p>21 ATTORNEY HEATH:</p> <p>22 But this has nothing to</p> <p>23 do with the question of ---.</p> <p>24 ATTORNEY NICHOLS:</p> <p>25 Oh, it is. This is what</p>

<p>Page 178</p> <p>1 they did. This is what --- 2 you're trying to decertify her. 3 You're trying to decertify 4 her --- 5 ATTORNEY HEATH: 6 I'm asking her --- 7 ATTORNEY NICHOLS: 8 --- on the basis of this. 9 And then you come in here and 10 act, well, what are you talking 11 about? 12 ATTORNEY HEATH: 13 This is a federal 14 lawsuit. 15 ATTORNEY NICHOLS: 16 What are you talking 17 about? 18 ATTORNEY HEATH: 19 This is perfectly legal. 20 ATTORNEY NICHOLS: 21 You are trying to 22 decertify my client. 23 ATTORNEY HEATH: 24 Let the record reflect 25 that at this point, I'm warning</p>	<p>Page 180</p> <p>1 stated of Arbitrator Arnis speaks 2 for itself. That is the issue 3 that she's put to us. My client 4 has answered. And I insist --- 5 or Counsel insists that I will 6 not allow her character to be 7 impugned this way when the 8 record clearly speaks on that 9 particular issue. 10 The arbitrator has 11 already ruled that she has done 12 nothing wrong. As a matter of 13 fact, it's that very basis that 14 we are asking for back wages, 15 unpaid wages, that I'm going to 16 be putting in the record. 17 ATTORNEY HEATH: 18 Again, I don't really 19 want to waste --- 20 ATTORNEY NICHOLS: 21 That very thing. 22 ATTORNEY HEATH: 23 --- any more time. 24 ATTORNEY NICHOLS: 25 Okay.</p>
<p>Page 179</p> <p>1 Mr. Nichols that this type of 2 behavior, I will go before the 3 Judge. 4 ATTORNEY NICHOLS: 5 We're going before the 6 Judge because I'm not going to 7 allow it. 8 ATTORNEY HEATH: 9 He is refusing to allow 10 his client to answer questions. 11 And I will move for dismissal of 12 the complaint because he is 13 refusing --- 14 ATTORNEY NICHOLS: 15 All right. You can 16 move --- 17 ATTORNEY HEATH: 18 --- to cooperate with the 19 court ordered deposition 20 relative to discovery. 21 ATTORNEY NICHOLS: 22 All I can say on that 23 particular issue --- on that 24 particular issue, let me say 25 this. The record that I've</p>	<p>Page 181</p> <p>1 ATTORNEY HEATH: 2 To certify it for the 3 Judge, I'm filing the motion 4 tomorrow. 5 ATTORNEY NICHOLS: 6 All right. 7 ATTORNEY HEATH: 8 Actually, I'm not filing 9 it until Thursday because I 10 won't be in tomorrow. 11 ATTORNEY NICHOLS: 12 Fine. 13 EXAMINATION 14 BY ATTORNEY HEATH: 15 QNext is Exhibit 16. I'm going 16 to ask you to take a look at this. 17 (de Leon Exhibit Number 18 16 marked for 19 identification.) 20 WITNESS REVIEWS DOCUMENT 21 BY ATTORNEY HEATH: 22 QHave you ever seen the student 23 records policy before? 24 ANo, I never have. 25 QAnd are you aware that this was</p>